

Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 536-P of 2018.

Abdur Rashid.....Petitioner.

Vs

Federation of Pakistan through Secretary Ministry of Interior &
 others.....Respondents

Date of hearing.....16, 17 & 18th October, 2018.....

Date of announcement.....18th October, 2018.....

Petitioner(s) by *Mr. Naveed AKhtar Advocate.*

Respondent(s) by *M/s. Wizar Ahmad AG, Musarratullah DAG,
 Atw CE. Col. Syed Kashif Munir & Maj. Rizwan Akram.*

WAQAR AHMAD SETH, CJ: -

Through this

single judgment, this Court intends to decide the instant

constitutional petition as well as connected petitions bearing

No.535-P/2018, 3794, 3837, 4071-P/2017, 637, 866, 1812,

1841, 2084, 3417, 3458, 3460, 3563, 3461, 3498, 3434, 3440,

3441, 3506, 3556, 3617, 3675, 3741, 3855, 4035, 4079, 4128,

4184, 4231, 4238, 3416, 3381, 3331, 3323, 3240, 3239, 3233,

3223, 3197, 3205, 3651, 3203, 3202, 2408, 2410, 4076, 2451,

2896, 3148, 3158, 3157, 3159, 4019, 3534, 4378, 4389, 4434,

4458, 4459, 4486, 4502, 4536, 4603, 4759, 4800, 3616, 4309,

/s/ Page 1 to page 142, are the facts of each and every writ petition.

4308, 4558 & 3650-P of 2018, as all the convicts / interneers have been tried under Pakistan Army (Amendment) Acts, 2015 / 2017.

2. Brief history of the instant as well as connected WP No. 535-P of 2018, are that, one Abdur Rashid son of Aslamay petitioner herein, has filed the petitions with the averment that his both sons namely Muhammad Haleem & Fazal Haleem / detenues / convicts, were arrested by the Rangers from Karachi, some four years ago, and thereafter they were shifted to Paithom Internment Center, where they used to visit, however, through news-clipping it came to know that both the detenues / convicts have been punished with death sentence, while as per record, so produced, detenues / convicts had joined Tehreek-e-Taliban, Swat in the year 2005, received war bounty, motivated locals to join Tehreek-e-Taliban, delivered hatred speeches against security forces and attacked the law enforcement agencies, resulting into casualties, vide FIR No. 148 dated May, 2008, FIR No. 05 dated January, 2009 & FIR No. 23 dated May, 2009. Detenues / convicts, after their arrest in December 18, 2014, were interned on 9th & 13th July 2016, in Paithom, Internment Center, where-after during investigation, they confessed the guilt by recording their

confessional statement before learned Judicial Magistrate and on commencement of trial both the detenues / convicts were charge sheeted under Pakistan Army Act 1952, amended in 2017 with the following charges:-

First charge.

PAA Section-59

against both the accused .

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, at Nangolai (Swat) on 20 May 2008, along with others, attacked the Nangolai Check Post, by firing with sub machine Guns, which resulted into the death of Frontier Constabulary Sepoy Mushtaq Ahmad and injuries to Policemen Izhar ul Amin; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

against both the accused .

Committing a civil offence, that is to say attacking the law enforcement agency/ Armed Forces of Pakistan

In that they, at Nangolai (Swat) on 29 January 2009, along with others, attacked the troops of 14 Northern Light Infantry Regiment and Frontier Constabulary by firing with sub machine Guns, which resulted into the death of following soldiers; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- (a) Naik Sajjad Ali ex 14 Northern Light Infantry Regiment.
- (b) Lance Naik Nowshad Khan ex Frontier Constabulary.
- (c) Lance Naik Aslat Khan ex Frontier Constabulary.

Third Charge.

PAA Section-59

against both the accused .

Committing a civil offence, that is to say an act of terrorism.

In that they, at Nangolai (Swat) on 3 May 2009, along with others committed an act of terrorism while causing grievous damage to Government Boys High School Nangolai, by planting / exploding the explosive, resulting into destruction of said school building; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017 read with Section 6(2) (c) of the Anti-Terrorism Act, 1997.

In order to prove the charge against the detenues / convicts, prosecution produced four witnesses, who were examined and cross examined and thereafter statement of detenues / convicts were recorded and on conclusion of trial both the detenues / convicts were awarded death punishment.

WP No. 3794-P of 2017.

Brief history of petition filed by Mst. Hameeda w/o Farukhzad is that, her son namely Aftab-ud-Din / detainee / convict, was surrendered to one Col. Naeem of 14 NLI Unit Bara Banda on 28.04.2010, and thereafter he was shifted to Paithom Internment Center, where they used to visit the said Center, however, through news-clipping it came to know that detainee / convict has been awarded death sentence, whereas perusal of record so produced suggests that detainee / convict during the year 2007 & 2008 remained active member of Umar Haqqani Group ex TTS, allegedly used to perform armed guard duties for Tehreek-e-Taliban, Swat in Imam Dheri & Ningolai.

On 25th October, 2007, abducted and slaughtered five Police Constables of PS Matta. On 20th May 2008, fired on police check post Ningolai, wherein constable Mushtaq Ahmad, embraced shahadat while two police constables got injured. On October, 5th 2008, looted United Bank Limited, Bara Bandal Branch, and in consequent to the above activities, FIR No. 488 dated 26.10.2007, 148 dated 20.5.2008 & 320 dated 5.10.2008, were lodged against him. Detenue / convict, surrendered on 28th April, 2010, where-after he was interned on 29th March, 2014. During investigation, the detenue / convict confessed the guilt, which was recorded by learned Judicial Magistrate and on commencement of trial, the detenue / convict was charge sheeted with the following charges:-

First charge.

PAA Section-59

Committing a civil offence, that is to say attacking Law Enforcement Agency.

In that he, at Ningolai (Swat) on 20 May 2008, along with others, attacked Police Check Post Ningolai, by firing different with calibers weapons, which resulted into the death of Police Constable Mushtaq Ahmad and injuries to Police Constable Izhar ul Amin and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Ningolai (Swat) on 28 April 2010, was found in possession of following fire-arms; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- (a) 2 x Sub Machine Gun.
- (b) 1 x Heavy Machine Gun.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosives.

In that he, at Ningolai (Swat) on 28 April 2010, was found in possession of following explosives; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017 read with Section 6(2) (c) of the Anti-Terrorism Act, 1997.

- (a) 240 x rounds of Sub Machine Gun.
- (b) 200 x rounds of Heavy Machine Gun.

To establish the guilt of detainee / convict, prosecution produced five witnesses, who were examined and cross examined and thereafter statement of detainee / convict was recorded and on conclusion of trial the detainee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 3837-P/2017.

Brief history of petition filed by Munir Shah son of Muhammad Shafiq, resident of South Waziristan Agency is that, his brother namely Shabir Ahmad / detainee / convict, was taken into custody by Security Forces on 07.06.2016, and

thereafter he was shifted to Internment Center at Kohat, and through news-clipping it came to know that detainee was awarded death sentence under Pakistan Army (Amendment) Act, 2017, while record so produced, suggests that detainee / convict was an active member of the banned Tahree-e-Taliban. On 22nd March, 2004, at South Waziristan Agency alongwith Wali and other attacked the convoy on road Tank-Wana near Serwakai Khasaddar Check Post by firing with Kalashnikov (AK-47) and Rocket Propelled Grenade-7, which resulted into death of security forces. At Tangi Barwand (South Waziristan Agency) again during March, 2004, abetted Commander Wali and other in causing death of 4 x soldiers out of 7x abducted soldiers and later on they were slaughtered by holding their legs one by one. The detainee / convict, was arrested from Dajal Check post on 7th June, 2016 and there-after, was interned and during interrogation / investigation, confessed the guilt before Judicial Magistrate, who recorded the same, and on commencement of trial, detainee / convict was charge sheeted with the following charges:-

First charge.

PAA Section-59

Committing a civil offence, that is to say attacking Armed Forces of Pakistan.

In that he, at South Waziristan Agency on 22 March, 2004, along with civilian Wali and others, attacked the convoy of 102 Engineers battalion moving on road Tank-Wana near Serwakai Khasadar Check Post by firing with Kalashnikov (AK-47) and Rocket Propelled Grenade-7, which resulted into death of following officer and soldiers of the said regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Maj Adnan Shah.
- b. Havildar Muhammad Sadiq.
- c. Naik Sultan Mehmood.
- d. Lance naik Khaliq Dad
- e. Naik (unpaid) Habibur Rehman.
- f. Sapper Gul Moeed.
- g. Sapper Ghulam Qasim
- h. Sapper Manzoor Hussain.
- i. Sapper Ghulam Sarwar
- j. Sapper Haider Rehman.
- k. Craftsman Zahid Hussain

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Tangi Barwand (South Waziristan Agency), during March 2004, abetted Commander Wali and others in causing death of 4x soldiers out of 7x abducted soldiers of 102 Engineers Battalion, by holding their legs one by one, in consequence of the said abetment, the said soldiers were slaughtered by his (accused) fellow terrorists; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove charges against the detainee / convict, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of detainee / convict was recorded and on conclusion of trial the detainee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 4071-P/2017.

Brief history of petition, filed by Mst. Tasleem Bibi w/o Muhammad Saleem, is that her son namely Muhammad Saleem / detainee / convict, was surrendered to one Maj. Javed in August, 2009, and thereafter he was released, however, again was arrested by Army Personnel and was handed over to PS Kabal, where-after, through post arrest bail, Judge ATC ordered the release of petitioner through bail, but was not released, and again took away by Security forces from jail premises, and went missing, however, through news-clipping it came to know that detainee was awarded death sentence, while record so produced before the Court, would suggest that Internee Muhammad Saleem joined Tehrik-e-Taliban Swat (TTS) and remained an active member of the organization. The Internee was close accomplice of Terrorist Commander Umer and used to guard duties alongwith other terrorists of the area with his AK-47. The internee is involved in fight against Law Enforcement Agencies in Buner and attached, on security forces, several times and an FIR No. 5 dated 29.1.2009, was lodged in this respect. The Internee was also involved on Army Check Post attack and regularly harboring the offenders after committing anti state activity. The Internee used to collect

donation / war bounty from the local. After the arrest on 30th May 2013, the internee was interned on 31st January 2013 and thereafter on commencement of trial was charge sheeted with the following charges:-

First charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that he, at Nangolai (Swat) on 20 May 2008, along with others, attacked the Police Check Post Ningolai, jointly manned by civil police and troops by firing with weapons of different calibers, which resulted into the death of Sepoy Mushtaq Ahmad and injuries to Sepoy Izhar ul Amin; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan/ Law Enforcement Agency.

In that he, at Ningolai (Swat) on 29 January 2009, alongwith others, attacked the check post Ningolai, by firing with Ak-47, which resulted into the death of following 3x soldiers; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- (d) Naik Sajjad ex 14 Northern Light Infantry.
- (e) Lance Naik Noushad Khan ex
- (f) Lance Naik Aslat Khan ex.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.


In that he, at Nangolai (Swat) on 30 May 2012, was found in possession of 1x Sub Machine Gun and thereby committed an offence

punishable under the Pakistan Army
(Amendment) Act, 2017.

To establish the guilt of internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 637-P/2018.

Brief history of the petition so filed by Mst. Raheem Begum w/o Sami ur Rehman is that, her husband namely Sami ur Rehman internee / convict, was arrested by security forces on 20.11.2014, and shifted to Fizza Gat Swat, Internment Center, however, through news-clipping it came to know that internee / convict was awarded death sentence, whereas, the record so produced before the Court suggests that internee / convict affiliated with Tehreek-e-Taliban, Swat and involved in number of terrorist activities. In August, 2008, internee / convict participated / abetted the attack by physical planting an Improvised Explosive Devise (IED) on Army Vehicles and personnel's at Kabal resulting into Shahadat of one officer, Major Muhammad Ehsan and five soldiers and serious injury of

 five soldiers of 36 Frontier Force Regiment. In October, 2008,

participated / abetted the attack by physical planning an Improvised Explosive Device (IED) at Siranai to attack Law Enforcement Agency and later you fired upon the Army vehicles and personnel's coming for assistance after the IED attack. In the year 2008 again participated / abetted the attack by physical throwing grenade on Cedar Gold Club, Kabal; resulting into injury of three soldiers alongwith damages to the Government property and in consequent to that FIR No. 135 dated 9.5.2008, FIR No. 290 dated 23.8.2008 & FIR No. 337 dated 22.10.2008, lodged against the internee / convict. The internee / convict was arrested on 29th November, 2011 & interned on December, 2011. During investigation / interrogation, internee / convict confessed the guilt, which was recorded by the learned Judicial Magistrate, and on commencement of trial, internee / convict was charge sheeted with the following charges:-

First charge.

PAA Section-59
against accused No.2.

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Second Charge.

PAA Section-59
against both accused.

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that they, at Kabal (Swat) on 23 August 2008, alongwith others, attacked the Army convoy by planting / exploding an Improvised Device followed by firing with weapons of different calibers which resulted into death of the following one officer and 5 x soldiers of 36 Frontier Force Regiment and injuries to 5 x soldiers of 36 Frontier Force Regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- (a) Major Muhammad Ihsan.
- (b) Sepoy Naseem Iqbal.
- (c) Sepoy Muqadar Khan.
- (d) Havildar Muhammad Al Haleem.
- (e) Naik Ghulam Abbas.
- (f) Sepoy Tasmee ur Rehman.
- (g) Sepoy Abdul Shakoor (Injured)
- (h) Naik Jaffar Khan (Injured)
- (i) Havildar Mumtaz Ali (injured)
- (j) Lance Naik Rehman Khan (injured)
- (k) Sepoy Sher Nawaz Khan (injured).

Third Charge.

PAA Section-59

against accused No.1 only.

Committing a civil offence, that is to say attacking Law Enforcement Agency of Pakistan.

In that he, at Sersanai (Swat) on 21 October, 2008, alongwith other attacked the convoy of Police and Frontier Constabulary by planting an Improvised Explosive Device followed by firing, which resulted into the death of following 1 x police Assistant Sub Inspector, 1 x Naib Subedar Frontier Constabulary, 3 x soldiers Frontier Constabulary and injuries to 1 x Naib Subedar Frontier Constabulary and 4 x soldiers Frontier Constabulary; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Assistant Sub Inspector Noor Zaman (dead)
- b. Naib Subedar Hussain Fayyaz (dead)
- c. Lance naik Roban Ali (dead)
- d. Sepoy Gul Wzir (dead)
- e. Sepoy Badri Zaman (dead)
- f. Naib Subedar Shams ur Rehman (injured)
- g. Naik Sadiq Shah (injured)
- h. Lance Naik Ali Bahadur (injured)
- i. Sepoy Wahid ur Rehman (injured)
- j. Sepoy Muhammad Tariq (injured)

Fourth Charge.

PAA Section-59
against accused No.1 only.

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that he, at kabal (Swat) in 2008,
alongwith civilian Ali Shah, attacked the Armed
Forces by throwing grenade on Cedar Golf
Club, which resulted into injuries to 3 x soldiers
of the Armed Forces; and thereby committed an
offence punishable under the Pakistan Army
(Amendment) Act, 2017.

Fifth Charge.

PAA Section-59
against accused No.2 only.

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To establish the guilt of interneer, prosecution produced

Four Witnesses, who were examined and cross examined and

thereafter statement of interneer / convict was recorded and on

conclusion of trial the interneer / convict was awarded death

punishment, which has been confirmed, accordingly.

WP No. 866-P/2018.

Brief history of the petition submitted by Akhtar Ali son

of Bakhtiar is that, his brother went missing and since 2010 and

they were in search of him when through news clipping they

came to know that his brother has been awarded death sentence,

while as per record so produced, the interneer / convict remained

involved in various terrorists activities against Law of Pakistan.

Internee / convict was involved at Kanju (Swat) during July 2013, abetted terrorist commander Muhammad Khan alias Afghani and others, in causing death of civil Shahi Rahman son of Hanif ur Rehman, member village defence committee, by carrying out reconnaissance and providing accommodation / food to the said terrorists, in consequence of which the said civilian was killed by the said terrorist on 22 July 2013; the internee at Kanju (Swat) during July 2013, abetted terrorist commander Muhammad Khan alias Afghani and others, in causing death of civilian Badi ur Rehman son of Firdous, member village defence committee, by carrying out reconnaissance and providing accommodation / food to the said terrorists, in consequence of which the said civilian was killed by the said terrorists on 28 July 2013, and to this effect FIR No. 392 dated 22.7.2013 & FIR No. 403 dated 28.7.2013 have been registered. The internee / convict was arrested on 1st August, 2013 & interned on 4th April 2014, and during investigation recorded his confessional statement before learned Judicial Magistrate, and on commencement of trial, internee / convict was charge sheeted with the following charges:-

First charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Kanju (Swat) during July 2013, abetted terrorist commander Muhammad Khan alias Afghani and other, in causing death of civilian Shahi Rahman son of Hani ur Rehman, member of village defence committee, by carrying out reconnaissance and providing accommodation / food to the said terrorist, in consequence of which the said civilian was killed by the said by the said terrorists on 22 July 2013, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Kanju (Swat) during July 2013, abetted terrorist commander Muhammad Khan alias Afghani and other, in causing death of civilian Badi ur Rehman son of Firdous, member of village defence committee, by carrying out reconnaissance and providing accommodation / food to the said terrorist, in consequence of which the said civilian was killed by the said by the said terrorists on 27 July 2013, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Kanju (Swat) on 1 August 2013, was found in possession of 2x Sub Machine Guns; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To probe the guilt of internee, prosecution produced Four

Witnesses, who were examined and crossed examined and

thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 1812-P/2018.

Brief history of the petition filed by Muhammad Ali son of Ali Sher is that, his son Hazrat Ali went missing and he was in search when through news-clipping it came to know that his son was awarded death sentence by Military Court, while as per record so produced, the internee / convict was the cousin of terrorist commander Irfanullah Mehsud of Sararogha, who actively participated in terrorist organization Tahrik-e-Taliban Pakistan (TTP). The internee / convict received training at Barwand Market from Commander Azmatullah Mehsud in April, 2006 and in the year 2007, participated in attack against security forces alongwith 40 x other terrorist under Command of Irfanullah Mehsud near Government High School Sararogha. In the year 2008, alongwith other terrorists went to Paktika-Afghanistan, participated in Jihad and stayed there for 2 x months. In the year 2008, suspect also participated in missile / rocket and mortar firing on Sararogha Fort. The internee also accompanied with foreign fighter and two locals mastermind.

The internee / convict was arrested on 10th December, 2009 and

thereafter on 16th August, 2017, was interned. During investigation / interrogation, internee /convict confessed his guilt by recording his confessional statement before learned Judicial Magistrate, and on commencement of trial on 6.2.2018, the internee / convict was charged sheeted with the following charge:-

PAA Section-59

Committing a civil offence, that is to say attacking Law Enforcement Agency.

In that he, at Sararogha Fort (South Waziristan) on 15 January, 2008, alongwith other attacked the troops of 1 Wing South Waziristan Scouts, by firing with different calibers weapons, which resulted into the death of following soldiers of the said Wing; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Havildar Wahab Ali.
- b. Naik Sher Alam.
- c. Sepoy Muhammad Akram.
- d. Sepoy Gul Mateen.

To probe the guilt of internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 1841-P/2018.

Brief history of the petition filed by petitioner Fazal Nabi

son of Abdul Mateen is that, his brother, convict / internee

Fazal Muhammad, serving as Security Guard was taken into custody by Military Intelligence in December, 2012 and since then he was missing, however, through news-clipping it came to know that brother of petitioner i.e. convict / internee was awarded death punishment, whereas record so produced before the court would depict that convict / internee joined Tehreek-e-Taliban, Tariq Geedar Group in 2007 and took part in Afghan Jihad. On return to Pakistan, under the Command of terrorist Gul Saeed, attacked Bush Khel Tower, Post, Kohat Tunnel on 25th January, 2008. The convict / internee also in the year 2008 at Torr Chapar, Darra Adam Khel, provided necessary weapons and ammunition to Terrorist Commander Waqar in carrying out attack on security forces post. The convict/internee was arrested on 12 December, 2017 and thereafter interned on 22nd January 2013. During investigation / interrogation, the convict /internee recorded his confessional statement on 20.5.2017 and on commencement of trial charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say attacking Armed Forces of Pakistan.

In that he, near Kohat, on 25 January, 2008, alongwith other attacked the Bush Khel

Tower post manned by Baloch Regiment by firing with different calibers, which resulted into the death of following Junior Commissioned Officer / Soldiers of the said regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Naib Subedar Fateh Muhammad.
- b. Havildar Parvez Iqbal.
- c. Havildar Basharat Ali.
- d. Sepoy Qaiser Hayat.
- e. Sepoy Zafarullah Khan.
- f. Sepoy Abdullah.
- g. Sepoy Abu Bakar.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Darra Adma Khel markez, on night 26/27 January 2008, by firing with sub machine Guns, caused death of Seopy Muhammad Amir of Baloch Regiment, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish the guilt of convict/internee, prosecution produced Four Witnesses, who were examined and cross examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No 2084-P/2018.

Brief history of the petition filed by petitioner Khan

Faraz son of Gul Faraz is that, his brother, convict / internee

Muhammad Fayyaz son of Gul Faraz, Driver, Mushtaq Coach,

was taken into custody by Military Intelligence and since then he was missing, however, through news-clipping it came to know that brother of petitioner i.e. convict / internee was awarded death punishment, while record so produced before the court would depict that convict / internee joined Tehreek-e-Taliban, Tariq Geedar Group in 2007 and in the year 2008, alongwith other terrorist of Tariq Geedar Group participated in physical attack against security force check post and killed 2 x soldiers with sub machine gun. The convict / internee at Matni police station Peshawar on 8th August 2008 alongwith 30 x other terrorists under command of Commander Sarfarz alias Shaige attacked Matni Police Station and killed a police constable with Kalashnikov. To this effect FIR No. 285 dated 8.8.2008 was lodged. The convict/internee was arrested on 27 January, 2013 and thereafter interned on 30th March 2017. During investigation / interrogation, the convict /internee recorded his confessional statement on 8th November, 2017 and on commencement of trial charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say attacking Armed Forces of Pakistan.

In that he, near Kohat, on 25 January, 2008, alongwith other attacked the Bush Khel Tower post manned by 45 Baloch Regiment by firing with different calibers, which resulted into the death of following Junior Commissioned Officer / Soldiers and captures of 9 x soldiers of the said regiment and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Pakistan Junior Officer, Naib Subedar Fateh Muhammad.
- b. Havildar Parvez Iqbal.
- c. Havildar Basharat.
- d. Sepoy Qaiser Hayat.
- e. Sepoy Zafarullah Khan.
- f. Sepoy Abdullah.
- g. Sepoy Abu Bakar Siddique.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that he, at Matni (Peshawra), on 8 August 2008, alongwith Terrorist Commander Sarfarz alias (Shaige and others, attacked police station Matni by firing with weapons of different calibers which resulted into the death of constable Saleem Khan of the said Police Station and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 3417-P/2018.

Brief history of the petition filed by petitioner, Khair Ali Khan son of Mehboob Khan is that, convict / interneer happens to be the son of petitioner, arrested by the Law Enforcement Agency from his house and shifted to unknown place, however, through news-clipping it came to know that convict /internee was awarded death punishment while record so produced would suggests that convict / interneer got affiliated with Israr Mehsud son of Kahir Wali DI Khan & Kashif Mehsud of TTP group Mehsud Chapter. The convict / interneer being part of Tehreek-e-Taliban Khan Sajna, group and abetted the organization in execution of its heinous activities. The convict / interneer killed civilian Abdul Rehman, Jamshed, Naheed Bibi & Nasreen bibi, to this effect FIR No. 742 dated 10.8.2012, FIR No. 34 dated 3.12.2013 & FIR No. 71 dated 6.3.2013, had been lodged. The convict / interneer was arrested on 5.8.2013 and thereafter in June 2014, he was interned. During investigation / interrogation, the interneer / convict confessed the guilt by recording his statement before learned Judicial Magistrate on December, 2, 2015, and on commencement of trial the convict / interneer was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to
say causing death of a person.

In that he, at Dera Ismail Khan, on 10 August 2012, alongwith civilian Kashif Mehsood, caused death of civilian Abdul Rehman son of Habib ullah, a member of local defence committee, by firing with 9 millimeter pistol, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Second Charge.
PAA Section-59

Committing a civil offence, that is to
say causing death of a person.

In that he, at Dera Ismail Khan, on 3 February, 2013, alongwith civilian Kashif Mehsood, caused death of civilian Jamshed son of Amanullah by firing with 9 millimeter pistol, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Third Charge.
PAA Section-59

Committing a civil offence, that is to
say causing death of a person.

In that he, at Dera Ismail Khan, on 6 March 2013, alongwith civilian Kashif Mehsood, caused death of Mst. Nasheed Bibi wife of Roshan Khan & Mst. Nasreen Bibi daughter of Roshan Khan by firing with 9 millimeter pistol, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Fourth Charge.
PAA Section-59

Committing a civil offence, that is to
say possessing fire-arm.

In that he, at Dera Ismail Khan, on 5 August 2012, was found in possession of 1x 9 millimeter pistol 2x magazines; and thereby

committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Fifth Charge.
PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Dera Ismail Khan, on 5 August 2013, was found in possession of 25x rounds of 9 millimeter pistol; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment, which has been confirmed, accordingly.

WP No. 3458-P/2018.

Brief history of the petition so filed is that, convict / petitioner was arrested by the security agencies and later on after trial has been punished with 20 years RI, while as per record, so produced, convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in terrorist activities.

On 11 May 2016, convict / internee alongwith other accomplices fired on security forces at dvamandazai and lobbed a grenade which resulted into injury of 1 x soldier, besides provides facilitation to the banned organization. The convict /

internee was arrested on 16th September, 2016 & interned on 24th December, 2016. During investigation / interrogation, the convict / internee confessed the guilt by recording his confessional statement on 6.12.2017, and on commencement of trial, convict / internee was charged sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking Law Enforcement Agency.

In that he, at Dvmandazai (Bannu) on 11 May 2016, alongwith terrorist Commander Shamin Jani Khel and others, attacked the..... By lobbing a hand grenade, which resulted into injury to... of the same regiment and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Ghora bakka Khel Wazir (Bannu) on 16 September, 2016, was found in possession of 1 x sub Machine Gun alongwith 2 x Magazines; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Ghora Bakka Khel Wazir (Bannu) on 16 September, 2016, was found in possession of 60 x rounds of sub machine gun; and thereby committed an offence punishable


under the Pakistan Army (Amendment) Act,
2017.

To establish charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded rigorous imprisonment of 20 years.

WP No. 3460 & 3563-P of 2018.

Brief history of the petitions, so filed before this Court is that, convicts / internees got arrested by the security forces and were shifted to internment center and later on through news-clipping it came to know that the convicts / internees have been awarded death punishments, while record produced before the court would depict that both the convicts / internees have joined Jamat ul Ahrar (Pakistan Tehreek-e-Taliban) in May 2015 on motivation of Terrorist Commander Wajih ex Tehrik-e-Taliban Pakistan and on 6 September, 2016, participated in target killing of Haji Malik Mohammad. The convict / internee Rawaz Khan was arrested on 6 September, 2016 while convict / internee Mubarak Zeb got arrested on 14 October, 2016.

Thereafter they were interned and during investigation they

 both confessed the guilt by recording their confessionals

statements on 10th October, 2017 and on commencement of trial, both the convicts were charge sheeted with the following charges:-

First Charge.

PAA Section-59
against accused No.1 only.

Committing a civil offence, that is to say causing death of a person.

In that he, at Darao Bazaar (Mohmand Agency) on 6 September, 2016, alongwith civilian Gulab Sher, by firing with 30 bore pistol, caused death of Malik Haji Mohammad, Member Aman Committee; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59
against accused No.2 only.

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Darao Bazaar (Mohmand Agency) on 6 September, 2016, abetted civilian Rawaz Khan and civilian Gulab Sher in causing death of Malik Haji Mohammad, Aman Committee; by carrying out reconnaissance and accompanying them on a motorcycle to the target, in consequence of the said abetment, the said civilian Malik Haji Mohammad; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59
against accused No.1 only.

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Darao Bazaar (Mohmand Agency) on 6 September, 2016, was found in possession of 1 x 30 bore pistol and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts was awarded death punishment, accordingly.

WP No. 3461-P/2018.

Brief history of the petition filed by petitioner Ahsanullah son of Seen Gul is that, his brother convict / internee Farhan got arrested by security forces on 3rd July 2016 and thereafter his where-about was not known, however, through news clipping it came to know that convict / internee was awarded death penalty, whereas record so produce suggests that convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in terrorists activities. On 21 June 2006, convict / internee planned and abetted an attack on a police mobile van at Bakka Khel, which resulted into shahadat of 1 x ASI and 2 x constables. On 3 July 2013, facilitated an attack on joint Army (35 Self Propelled) and FC post in Sarai Naurang by providing accommodation and found to the executing terrorist besides being part of the planning process which resulted into shahadat of 10 x Army (35 self propelled) and 4 x FC soldiers alongwith few civilians. Moreover, 10 x Army (35 Self

Propelled) and 8 x FC soldiers also got injured. In March, 2011 kidnapped and killed local businessmen Muhammad Hussain in Mirali. The convict / internee was arrested on 3rd July 2016 and interned on 9th August 2016 and during investigation / interrogation he recorded his confessional statement on 12 July, 2017. On commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Law enforcement Agency.

In that he, at Azad Mandi (Baka Khel), during June 2006, abetted civilian Zar Gul alias Uncle and others, by providing weapons, grenades, food and accommodation to the said terrorist to attack a police mobile van, in consequence of said abetment, the said terrorist carried out an attack on the said mobile van at a petrol pump near Azam Mandi on 21 June 2006, which resulted into shahadat of Assistant Sub Inspector Jan Daraz Khan, Constable Munawar Khan and Driver Ghulam Shafiq Khan; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Mir Ali, on 20 April, 2011 caused death of civilian Muhammad Hussain son of Gul Hussain, a businessman, by firing with Kalashnikov (AK-47); and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Armed Forces of Pakistan / Law Enforcement Agency.

In that he, at Sarai Naurang (Lakki Marwat), during February, 2013, abetted civilian Zar Gul alias uncle and others, by carrying out reconnaissance and providing food / accommodation to the said terrorists, in consequence of said abetment, they said terrorist attacked the check post (jointly manned by Army and Frontier Constabulary) at Sarai Naurang on 2 February 2013, which resulted into death of following 14 x individuals and injuries to 18 x others; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Subedar Muhammad Irfan.
- b. Havildar Gunner Muhammad Nadeem.
- c. Havildar Gunner Arif Hussain.
- d. Lance Havildar Anwar Ali.
- e. Naik Muhammad Amin.
- f. Naik Gunner Ali Gul.
- g. Sepoy Muhammad Saleem.
- h. Lance Naik Tauqeer Khan.
- i. Sepoy Muhammad Waseem Shah.
- j. Gunner Irfan.
- k. Naib Subedar Abdullah.
- l. Sepoy Bakht Kamal.
- m. Sepoy Kashif.
- n. Sepoy Amal Zada.

To establish charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts was awarded death punishment, accordingly.

WP No. 3498, 3434, 3440 & 3441-P of 2018.

Brief history of the petitions, so filed are that, convicts / internees were arrested by the security forces, kept in unknown places / areas and later through news clipping it came to know that all the convicts / internees have been awarded death punishment, while as per record, so produced, convicts / internees are involved in the terrorists attack on 31 March, 2017, conducted / abetted a vehicle Borne Improvised Explosive Devices by placing kamanis/iron sheets and making secret compartments in the vehicle and providing 8 x mortar rounds, prima cord to Ashiq Khan, on Markazi Imam Bargah, Parachinar, which resulted into shahadat of 22 x individuals and injuring more than 130 x persons. The convicts / internees were arrested in April, 2017 and thereafter they were interned and during investigation / interrogation, they recorded their confessional statement on 11 October, 2017 before Judicial Magistrate. On commencement of trial, they were charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against accused No.1 & 2 only.

Committing a civil offence, that is to say abetment in causing death of a person.

In that they, at Parachinar (Kurram Agency) during 2017, abetted Terrorist Qari Jamal, Qasim alias Kakai and Ehsanullah (a suicide bomber) by planning carrying out reconnaissance, providing accommodation and preparing / transporting vehicle Borne Improvised Explosive device to the target area, in consequence of the said abetment, said suicide bomber carried out suicidal bomb blast at Markazi Imam Bargah, Parachiar on 31 March, 2017, which resulted into death of 22x persons; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Against accused No.1 & 2 only.

Committing a civil offence, that is to say abetment in causing injury to a person.

In that they, at Parachinar (Kurram Agency) during 2017, abetted Terrorist Qari Jamal, Qasim alias Kakai and Ehsanullah (a suicide bomber) by planning carrying out reconnaissance, providing accommodation and preparing / transporting vehicle Borne Improvised Explosive device to the target area, in consequence of the said abetment, said suicide bomber carried out suicidal bomb blast at Markazi Imam Bargah, Parachiar on 31 March, 2017, which caused injuries to 130 persons; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Against accused No.3 only.

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Tari Mangal (Upper Kurram) during 2017, abetted Terrorist Ashiq Khan alias Ashoq (accused No.1) by providing 8 x 82 millimeter mortar rounds for the preparation of vehicle Borne Improvised Explosive Device, in consequence of the said abetment, terrorist Ehsanullah (a suicide bomber) carried out suicidal bomb blast by using the said vehicle Boren Improvised Explosive Device on Markazi Imam Bargah, Parachiar on 31 March, 2017, which resulted into death of 22 x persons and thereby

committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

Against accused No.3 only.

Committing a civil offence, that is to say abetment in causing injury to a person.

In that he, at Tari Mangal (Upper Kurram) during 2017, abetted Terrorist Ashiq Khan alias Ashoq (accused No.1) by providing 8 x 82 millimeter mortar rounds for the preparation of vehicle Borne Improvised Explosive Device, in consequence of the said abetment, terrorist Ehsanullah (a suicide bomber) carried out suicidal bomb blast by using the said vehicle Boren Improvised Explosive Device on Markazi Imam Bargah, Parachiar on 31 March, 2017, which caused injuries to 130 x persons and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fifth Charge.

PAA Section-59

Against accused No.4 only.

.....
.....

Sixth Charge.

PAA Section-59

Against accused No.3 only.

.....
.....

Seventh Charge.

PAA Section-59

Against accused No.5 only.

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Village Kotri (Upper Kurram) during 2017, abetted Terrorist Ashiq Khan alias Ashoq (accused No.1) by providing prima cord for preparation of vehicle Borne Improvised Explosive Device, in consequence of the said abetment, terrorist Ehsanullah (a suicide bomber) carried out suicidal bomb blast by using the said vehicle Boren Improvised Explosive Device on Markazi Imam Bargah, Parachiar on 31 March, 2017, which resulted into death of 22 x persons and thereby committed an

offence punishable under the Pakistan Army (Amendment) Act, 2017.

Eight Charge.

PAA Section-59

Against accused No.5 only.

Committing a civil offence, that is to say abetment in causing injury to a person.

In that he, at Village Kotri (Upper Kurram) during 2017, abetted Terrorist Ashiq Khan alias Ashoq (accused No.1) by providing prima cord for preparation of vehicle Borne Improvised Explosive Device, in consequence of the said abetment, terrorist Ehsanullah (a suicide bomber) carried out suicidal bomb blast by using the said vehicle Boren Improvised Explosive Device on Markazi Imam Bargah, Parachiar on 31 March, 2017, which caused injuries to 130 x persons and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts was awarded death punishment, accordingly.

WP No. 3506 & 3556-P of 2018.

Brief history of the petitions filed before this Court are that, convict / internee Jannat Karim son of Gul Karim was taken into custody on 28.3.2011 while convict / internee Abubakar was taken into custody in the year 2010 and thereafter they went missing, however, through news clipping it came to know that both the convicts / internees have been

awarded death penalty, whereas, record so produced suggests that both the convicts /internees were affiliated with Tehreek-e-Taliban (Hafiz Doulat group) and involved in terrorists activities. On June, 12 2009, both the convicts / internees at Mamu Banda Petrol Pump, physical took part in Vehicle Borne Improvised Explosive Device blast against Police at Mamu Banda, causing death of 4 soldiers. On 25 December, 2010, at Maroofi (Hangu) both the convicts / internees were found in possession of Vehicle Borne Improvised Explosive Device carrying 400 Kilograms of explosive. On March 24, 2011 at Boaba District Hangu, carried out Vehicle Borne Improvised Explosive Device and attacked police causing death of 1 police constable and 5 civilian. To this effect FIR No. 143 dated 24.3.2011 was registered. After their arrested, the convicts / internee were interned on 6th January, 2016 and during investigation / interrogation, they recorded their confessional statement on 2nd May, 2017 and on commencement of trial, convicts / internees were charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against all the accused persons.

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, at Mamu Banda, District Hangu, on 12 June 2009, attacked a Police Convey by exploding Vehicle Borne Improvised Explosive Device followed by firing with Sub Machine Guns on the said convoy, which resulted into death of following police officials; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Constable Shah Nawaz.
- b. Constable Muhammad Salim.
- c. Havildar Dilawar Khan.
- d. Sepoy (Driver) Haroon Shah.

Second Charge.

PAA Section-59

Against accused No.1.

Committing a civil offence, that is to say abetment in attacking law enforcement agency.

In that he, at Doaba, District Hangu, during March 2011, abetted Terrorist Majid (a suicide bomber) to attack Boaba Police Station by planning, carrying out reconnaissance, and directing him to the target area, in consequence of the said abetment, he (suicide bomber) carried out Vehicle Borne Improvised Explosive Device suicidal blast on the said Police station on 24 March 2011, which resulted into death of following police officials and civilians; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Constable Muhammad Rahim.
- b. Civilian Khiaat Janan son of Zareef Khan.
- c. Civilian Sher Rehman son of Noor Jan.
- d. Civilian Sajid Rehman son of Said Rasul.

Third Charge.

PAA Section-59

against accused No. 2 & 3.

Committing a civil offence, that is to say possessing explosive.

In that they, at Maroofi during 2010, possessed a Vehicle Borne Improvised Explosive Device (Toyota Corolla) fitted with following explosive; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. 5x explosive packets (2x feet long)
- b. 2x plastic cans filled with explosive.
- c. 2x 82 millimeter mortar bombs.

To establish charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts was awarded death punishment, accordingly.

WP No. 3617-P of 2018.

Brief history of the petition so filed before this Court is that, convict / internee Sajid Khan son of Sher Rehman, was handed over to Political Administration of Mohmand Agency, who further handed over to Law Enforcement Agency and later on interned in Kohat Internment Center, however, through news clipping petitioner came to know that Sajid Khan has been punished with death penalty, while as per record of respondents, the convict / internee, affiliated with Tehreek-e-Taliban, Mohmand Agency and involved in number of terrorist activities. On June 13, 2010, participated in a physical attack against Shunkrai Post ex Mohmand Rifles which resulted into shahadat of 6 x soldiers, while 31 soldiers were abducted and later executed. On 26 March, 2012, alongwith other terrorists destroyed a telephone exchange, community center and primary school at Bakhshi Kor, Atta Bazar, Tehsil Khwaizai, Mohmand

Agency. On 2nd April, 2012, participated in an attack on Wolai Post ex Mohmand Rifles alongwith other terrorists which resulted into shahadat of 6 x soldiers while injuring 2 x soldiers. The convict / internee was arrested on 7 October, 2012 and interned on October, 7, 2012. During investigation / interrogation, convict /internee confessed the guilt by recording his confessional statement before Judicial Magistrate on 14 July, 2016, and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, at Agency, on 13 June 2010 alongwith other, attacked Shunkrai check post ex. By firing with weapons of different caliber, which resulted into the death of Junior Commissioned Officers / Officials and capture of 13 x other Junior Commissioned Officer / Officials of the said Unit and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a.....
- b.....
- c.....
- d.....
- e.....
- f.....

Second Charge.
PAA Section-59

Committing a civil offence, that is to say an act of terrorist.



In that they, at Mohmand Agency, on 26 March, 2012, alongwith other, committed an act of terrorism by exploding explosives at a telephone

exchange, community centre and a primary school located at Bakhshi Kor, Atta Bazar; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, at Mohammad Agency, during night 1/2 April 2012, alongwith other, attacked Walai Post ex.... Rifles, by firing with weapons of different caliber, which resulted into the death of following soldiers and injuries to 2x other soldiers of the said Wing; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a.....
- b.....
- c.....
- d.....
- e.....

To establish charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts was awarded death punishment, accordingly.

WP No. 3675-P/2018.

Brief history of the petition filed before this Court is that, convict / internee was arrested by the security forces and thereafter interned to Kohat Internment Centre and later on through news clipping it came to know that convict / internee was awarded death punishment, whereas record so produced depict that convict / internee was affiliated with Tehreek-e-

Taliban, Pakistan and involved in number of terrorist activities.

On 9th June, 2009 at Peshawar, physically took part in attack in Vehicle Borne Improvised Explosive Device blast on Pearl Continental Hotel, causing multiple deaths to the security guards / civilians. FIR No. 336 dated 9.6.2009, was lodged to this effect. The convict / internee, after his arrest was interned on 16 July 2014, and thereafter during investigation / interrogation, he confessed the guilt by recording his confessional statement before learned Judicial Magistrate on 9th May, 2017, and on commencement of trial convict / internee was charge sheeted with the following charge:-

PAA Section-59

Committing a civil offence, that is to say attacking civil installation in Pakistan.

In that he, at Peshawar on 9 June 2009, alongwith terrorist commander Umar Kundi alias Maaz, Asmat (a suicide Bomber) and others, attacked Pearl Continental hotel Peshawar by firing with Kalashnikov, followed b Vehicle Borne Improvised explosive Device, which resulted into death of following individuals and partial damage to the said hotel and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict

was recorded and on conclusion of trial the internee / convict was awarded death punishment, accordingly.

WP No. 3741-P/2018.

Brief history of the petition filed before this Court is that, convict / internee was surrendered by elders in the year 2010 and later on shifted to Central Jail Kohat, and on conclusion of trial convicted and sentenced to 20 years, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat and involved in number of terrorist activities. In June 2008 participated / abetted the attack on PTDC Hotel Malam Jabba, which resulted in heavy loss to the Government Property. In August 2008, allegedly participated in the attack on Government Girls Middle School, Kishwara, which resulted into huge loss. In November, 2008, participated in the attack on Army Post at Acharo Sar Malamjabba. To this effect FIR No 135 dated 26.6.2008 & 181 dated 1.8.2008 have been lodged. The convict / internee was arrested on July 3 2010 & interned on 19 March, 2014. Thereafter during investigation, he confessed the guilt by recording his confessional statement on 24.7.2015 and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Malam Jabba (Swat) during night 25/26 June 2008, alongwith others, committed an act of terrorism while causing grievous damage to Pakistan Tourism Development Corporation by setting the said hotel on fire, resulting into destruction of complete building; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017 read with section 6(2)(c) of the Anti Terrorism Act 1997.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Kishwara (Swat) during night 1/52 August 2008, alongwith others, committed an act of terrorism while causing grievous damage to Government Girls Middle School Kishwara by setting the said school on fire, resulting into destruction of complete building; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017 read with section 6(2)(c) of the Anti Terrorism Act 1997.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Acho Sar Malam Jabba (Swat) on 9 November, 2008, alongwith others, attacked the post of Punjab Regiment by firing with weapons of different caliber, which resulted into injury to Naik Muhammad Bashir of the same Regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Khu, Malam Jabba (Swat) on 4 July, 2010, was found in possession of 2 x hand grenades; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was punished with 20 years imprisonment.

WP No. 3855-P/2018.

Brief history of the petition filed before this Court is that, convict / internee Hafiz Israr Ahmad, in September, 2009 was handed over to security forces and thereafter shifted to Central Jail, Kohat, however, later on convict / internee parents were informed of the sentence, whereas record so produced before the Court would suggest that convict / internee on 21 October, 2008 at Siranai (Swat) alongwith others attacked the convoy of Frontier Constabulary Khyber Pakhtunkhwa & Police by firing with different weapons of offence, resulting into the death of security personnel. To this effect FIR No. 377 dated 22.10.2008 was registered. The convict / internee was arrested on 6 October, 2009 & interned on 22 October, 2009 and thereafter during investigation, he confessed the guilt by recording his

confessional statement on 2.11.2015, and on commencement of trial convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59
against both the accused person.

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, at Sirsanai (Swat) 21 October, 2008, alongwith others, attacked the convoy of Frontier Constabulary Khyber Pakhtunkhwa and Police by firing with weapons of different calibers, which resulted into death of following soldiers /police officials and injuries to 5x soldiers of the said law enforcement agencies; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

- a. Naib Subedar Hassan Faraz.
- b. Lance Naik Ruban Ali.
- c. Sepoy Badri Zaman.
- d. Sepoy Gul Wazir.
- e. Assistant Sub Inspector Noor Zaman.

Second Charge.
PAA Section-59
against accused No.1 only

.....
.....

Third Charge.
PAA Section-59
against accused No.1 only

.....
.....

Fourth Charge.
PAA Section-59
against accused No.2 only

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Sirsanai (Swat) on 6 October, 2009, was found in possession of following fireman;

and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015;

- a. 2x Kalashnikov (AK-47).
- b. 1 x Rocket Propelled Grenade-7 launcher.

Fifth Charge.

PAA Section-59

against accused No.2 only

Committing a civil offence, that is to say possessing explosive.

In that he, at Sirsanai (Swat) on 6 October, 2009, was found in possession 3x rounds of Rocket Propelled Grenade-7; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

To prove charges against the convict/internee, prosecution produced Five Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was punished with death sentence.

WP No. 4035-P/2018.

Brief history of the petition filed by Saeeda Bibi wife of Saleem (convict) is that, convict / internee was arrested from Dargai Check Post by security forces in 2014 and thereafter shifted to Internment Centre Paithon and later on petitioner was informed by local police regarding the sentence, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat and involved in number

of terrorist activities. On October, 9, 2008, at 0245 hours, convict / internee alongwith other terrorists demolished Government High School, Dherai, by planning explosive and improvised explosive device on school building. On 7 January, 2009, participated in an ambush which was planned to be laid on Quick Reaction Force near Kuza Banda, which led to shahadat of 2 x soldiers and 2 x soldiers injuries. In January, 2008, fired 5 x magazine of sub-machine gun while fighting against Army at Kuza Bandai, which resulted into shahadat of 1 x non-commissioned officer and 1 x officer, 3 x soldier and 1 x civilian got injured. On 11 May, 2009, during fight against Frontier Constabulary, at Kanju, participated and fired mortar rounds on Kanju Fort resulting into Shahadat of PL-397 Sepoy Sajid Khan of Frontier Constabulary North and 5 x soldiers also got injured. On 18 May, 2010, killed Sher Khan, Union Council Nazim besides his brother Majidullah by firing 15x rounds of 30 bore pistol on Sher Khan / his brother. On 23 July 2013, targeted Badi ur Rehman by firing 3x rounds. To this effect vide FIR No. 98 dated 18.5.2010, FIR No. 392 dated 23.17.2013 & FIR No. 403 dated 27.7.2013, have been lodged.

The convict / internee was arrested on 4 June 2015 & interned on 5 August, 2016. During investigation, convict / internee

confessed the guilt by recording his confessional statement before learned Judicial Magistrate on 10.8.2017, and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Dherai (Swat) on night 8/9 October, 2008, alongwith others, committed an act of terrorism while causing grievous damage to Government High School Dherai, by planting / exploding the explosive and Improvised Explosive Device on school building, resulting into destruction of the said building; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017 read with section 6(2) (c) of the Anti Terrorism Act, 1997.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Kuza Bandai (Swat) on 7 January, 2009, alongwith others, attacked the Quick Reaction Force of 32 Azad Kashmir Regiment, by exploding an Improvised Explosive Device followed by firing with sub machine gun which resulted into death of followed soldiers and injuries to 2 x soldiers of the said regiment, and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Sepoy Muhammad Shehzad.
- b. Sepoy Syed Tassawar Hussain Shah.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Kuza Bandai (Swat) on 29 January, 2009, alongwith others, attacked the Troops of 32 Azad Kashmir Regiment, conducting cordon and search operation against the terrorist, by firing with small arms, which resulted into death of Havildar Munir Ahmad and injuries to 1x officer and 3x other soldiers, all of the said regiment; thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan/Law Enforcement Agency.

In that he, at Kanju (Swat) on 11 May 2009, alongwith others, attacked the troops of 72 Punjab Regiment / Frontier Constabulary (North) deployed at Jani Kanju Fort, by firing with mortars, which resulted into the death of Sepoy Sajid Khan of the Frontier Constabulary and injuries to 5 x soldiers of 72 Punjab regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Kuza Bandai (Swat) on 18 May, 2010, alongwith others, caused death of civilian Sher Khan, by firing with 30 bore pistol; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Sixth Charge.

PAA Section-59

Committing a civil offence, that is to say causing injury to a person.

In that he, at Kuza Bandai (Swat) on 18 May, 2010, alongwith others, caused injury to civilian Majidullh, by firing with 30 bore pistol; and thereby committed an offence punishable

under the Pakistan Army (Amendment) Act, 2017.

Seventh Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Ghurejo (Swat) on 23 July 2013, caused death of civilian Shahi Rehman, by firing with 30 bore pistol; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Eight Charge.

PAA Section-59


Committing a civil offence, that is to say causing death of a person.

In that he, at Dherai (Swat) on 27 July 2013, alongwith others, caused death of civilian Badi ur Rehman by firing with 30 bore pistol; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove charges against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was punished with death sentence.

WP No. 4079-P/2018.

Brief history of the petition filed by Bakht Shehzada son of Fazal Rehman is that, convict / internee was taken into custody by security forces on 4.10.2011 and shifted to Paithon

 Internment Centre and later on awarded 20 years RI

Punishment, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat and was part of planning / conduct team, purchased cylinders for preparation of improvised explosive devices for carrying out attack on Government Boys Middle School, Daulat Kalay. The convict / internee was arrested on 4.10.2011 and interned on 11 May 2014. During investigation / interrogation, he confessed the guilt by recording confessional statement on 22.10.2015. On commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say to over-awe any section of the public.

In that he, at Shangla, during night ¾ October, 2011, alongwith commander Qari Iqbal and others, over-awed the student community of Shangla by destroying the Government Boys Middle School Daulat Kalay; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Second Charge.
PAA Section-59

Committing a civil offence, that is to say possessing fire arm.

In that he, at Shangla, on 10 October 2011, was in possession of 1 x sub machine gun (AK-47) and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Shangla, was found in possession of following explosive; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

- a. 50x rounds of sub machine gun (AK-47).
- b. 2x improvised explosive devices.

To prove charges against the convict/internee, prosecution produced five Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded 20 years rigorous imprisonment.

WP No. 4128-P/2018.

Brief history of the petition filed by petitioner Farmanullah son of Habib ur Rehman is that, convict / internee Habib ur Rehman was taken into custody by security forces on 12.4.2012 and thereafter was shifted to Kohat Jail and later on petitioner was informed regarding the death sentence, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. In the year 2010, at Kalaya, Orakzai Agency, attacked Headquarter of Frontier Corps by

firing small and heavy arms, which, resulted into death of 4 x personnel including an officer and injuring 15x other soldiers of Frontier Corps and Frontier Constabulary. In 2009, at Ferozkhel, Orakzai, Agency, alongwith other terrorists received 14 million from Sikh Community and handed over to Commander Aslam Farooqi of Tehreek-e-Taliban, Pakistan. The convict / internee was arrested on 12.4.2012 and interned on 20th January, 2016. During investigation, he confessed the guilt by recording his confessional statement on 2.5.2014 and on commencement of trial, charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say receiving funds for the illegal activities.

In that he, at Ferozkhel (Orakzai Agency) during 2009 received an amount of Rupees 4,000,000/- (Four million only) or thereabout from local resources (Sikh Community of the area) for the illegal activities of Tehreek-e-Taliban, Pakistan; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking law enforcement agency.

In that he, at Kalaya (Orakzai Agency) during night 25/26 March, 2010, alongwith others attacked the 2x Check Posts (Shina Naka and Mian Ziarat) of Frontier Corps / Frontier

Constabulary by firing with weapons of different caliber, which resulted into Shahadat of following officer / soldiers and injuries to 15x other soldiers of the said law enforcement agency and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- | | |
|------------------------------------|------------------------|
| a. Lieutenant Colonel Anwar Abbas. | 2 Wing Swat Scouts |
| b. Naik Ahmadullah. | 2 Wing Swat Scouts |
| c. Havildar Taj Khan. | Frontier Constabulary. |
| d. Sepoy Rabit Khan. | Frontier Constabulary. |

To prove charges against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death punishment.

WP No. 4184-P/2018.

Brief history of the petition filed by petitioner Taj Muhammad son of Naik Muhammad is that, his son convict / internee was arrested on 16.2.2017 by security forces, and through news clipping it came to know that convict / internee was awarded death sentence, while as per record so produced before the court would suggest that convict / internee was affiliated with Tehreek-e-Taliban, Pakistan, Tariq Gidar Group and involved in number of terrorist activities. On 13 October, 2014, convict / internee alongwith Arif alias Khalil and Izat alias killed police constable Ijaz Ahmad alongwith 1 lady (Mrs.

Zarmina wife of Raza Khan) and injured 1 x lady and a child, in Inzari Chowk, Badhber, Peshawar. FIR No. 925 dated 13.10.2014, lodged to this effect. Performed duties of courier man to distribute funding to the terrorist Arif alias Khalil and purchased motorcycle for carrying out target killing on the orders of Qari Shafique. The convict / internee was arrested on 17.2.2017 and interned on 15.3.2017. During investigation, convict / internee confessed his guilt by recording his confessional statement on 1.1.2018. On commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Badhber Peshawar, during September-October, 2014, abetted terrorists Arif alias Khalil and Iaz alias Malang, by carrying out reconnaissance of routine activities and identification of Police Constable Ijaz Ahmad, in consequence of which on 13 October, 2014, the said police constable and Mst. Zarmina wife of Raza Khan were shot dead with AK-47 by the said terrorist and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing injury to a person.

In that he, at Badhber Peshawar, during September-October, 2014, abetted terrorists

Arif alias Khalil and Iaz alias Malang, by carrying out reconnaissance of routine activities and identification of Police Constable Ijaz Ahmad, in consequence of which on 13 October, 2014, the said terrorist carried out firing with AK-47 on the said police constable, which resulted into injuries to following civilian; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. Mst. Ubaida Bibi wife of Khayal Akbar.
- b. Master Shehzad son of Khayal Akbar.
- c.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say possessing fore-arm.

In that he, at Tela Bank, Badhber Peshawar, on 16 February 2017, was found in possession of 1x 30 bore pistol and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To prove charges against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 4231-P/2018.

Brief history of the petition filed by petitioner Said Ayaz son of Muhammad Nawaz is that, his brother Fayyazullah on 18.7.2016 and through news clipping it came to know that convict has been awarded death penalty, while as per record so produced before the Court, convict / internee affiliated with

Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. In the year 2006 planned and participated in an ambush against security forces convey at Kuram Kot. On night 21/22 July 2009, allegedly participated in a physical attack alongwith other accomplices against Faqir Appi Check Post ex Pakistan Army which resulted into Shahadat of 1 x soldier Sepoy Shahzad Pervez. The convict / internee was arrested on 16.7.2016 and during investigation, he confessed the guilt by recording his confessional statement on 3.1.2018. On commencement of trial, convict / internee was charge sheeted with the following charges:-

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Gervok (Miran Shah) during night 21/22 July 2009, alongwith others attacked Faqir Appi post manned by 2 Sindh Regiment by firing with weapons of different caliber, which resulted into the death of Number 3472759 Sepoy Shahzad Pervez of the said regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish the guilt against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict

was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 4238-P/2018.

Brief history of the petition filed by petitioner Faizullah son of Hayatullah is that, his brother / convict Kaleemullah went missing and they were in search, when received information from ACS Bara regarding visitation as convict was awarded death penalty, whereas record so produced before the court suggests that convict / internee was affiliated with Tehreek-e-Taliban, Pakistan (Abdullah Azam Brigade Group) and involved in number of terrorist activities. The convict / internee at Fatimi Khel, Landikotal, Khyber Agency, on 12 March, 2013, physically took part in improvised explosive device blast against civilians. On 28 May, 2013, at Landikotal, Khyber Agency, fired upon Frontier Corps individual with 30 bore pistol which resulted into serious injuries of Lance Naik Younas Khan, 5 Wing Khyber Rifles. The convict / internee was arrested on 28 May, 2013 and interned. During investigation he confessed the guilt by recording his confessional statement on 19.10.2017. On commencement of trial, the convict / internee was charge sheeted with the

following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Khyber Agency during night 11/12 March, 2013, alongwith other, by planting / exploding an improvised explosive device in Fatimi Khel, area, caused death of civilian Jibraheel son of Khairullah; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Khyber Agency during night 11/12 March, 2013, alongwith other, committed an act of terrorist by planting / exploding an improvised explosive device in Charwazgai area, which was likely to cause death or endangers a person's life; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017, read with section 6 (2) (c) of the Anti Terrorism Act, 1997.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Khyber Agency during May, 2013, alongwith terrorist Alam, committed an act of terrorism by fixing / planting 2x Russian Missiles on the mountains to target the helipad and army accommodation located at Landikotal Cantonment, which was likely to cause death or endanger a person's life; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017, read with section 6 (2) (c) of the Anti Terrorism Act, 1997.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Law Enforcement Agency.

In that he, at Landikotal (Khyber Agency) on 28 May, 2013, attacked the patrolling party of Frontier Corps, by firing with 30 bore pistol, which resulted into injuries to Sepoy Younas Afridi of the said Corps; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Abdul Had Kili (Landikotal) on 28 May, 2013, was found in possession of a 30 bore pistol; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish the guilt against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 3416-P/2018.

Brief history of the petition filed by petitioner Mir Janan is that, convict / internee Abdul Latif, went missing and they were in search when informed through telephone regarding the punishment of convict / internee, while as per record so produced, convict / internee was convict / internee was close

associate / active commander of Tehreek-e-Taliban and remained involved in number of terrorist activities. In October, 2009, at Upper Orakzai, Agency, abetted a suicide bomber to attack the Jirga, by planning and transporting vehicle borne improvised explosive device to the target area, in consequence of the said abetment, the suicide bomber carried out suicidal blast on the said jirga on 23 October, 2009 at Khazdezai, which resulted into death of 150x persons. On July 2013, at South Waziristan Agency, attacked on the troops of Frontier Constabulary deployed at Jani Kot Fort, by firing with Kalashnikov (AK-47) which resulted into the death of 7x soldiers. The convict / internee was arrested on 6 December, 2014 and interned on 13 June 2016. During investigation he confessed the guilt by recording his confessional statement on 29 June 2016, and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Upper Orakzai Agency, during October, 2009, abetted civilian Sherdil Mehsud a suicide bomber, to attack the Jirga, by planning and transporting Vehicle Borne Improvised Explosive Device to the target area, in consequence of the said abetment, he (suicide bomber) carried out suicidal blast on the said

Jirga on 23 October, 2009 at Khadezai, which resulted into death of 150x persons; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that he, at South Waziristan Agency, on 22 July 2013, alongwith others, attacked on the troops of Frontier Constabulary deployed at Jani Kot Fort, by firing with Kalashnikov (AK-47) which resulted into the death of 7x soldiers of Frontier Constabulary; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

To establish the guilt against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 3381-P/2018.

Brief history of the petition filed by Hussain Bahadar son of Sher Bahadar is that, on 3.9.2010, convict / internee Gulab Noor went missing and whereabouts wasn't known, however, through letter No. 1733 dated 11.6.2018, petitioner was informed qua sentence of the convict / internee, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in

number of terrorist activities. In 2009, at Tora Warae, Orakzai Agency took part in attack against security forces Check Post, resulted into death of 1 soldier and 5 injured. The convict / internee was arrested on 9 Sep 2010 and thereafter interned on 15 July 2016. During investigation he confessed the guilt by recording his confessional statement on 8.3.2017 and on commencement of trial, he was charge sheeted with the following charge:-

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Tora Wari (Hangu) on 26 October, 2009, alongwith other, attacked the check post of 36 Punjab Regiment; by firing with different calibers weapons, which resulted into death of Sepoy Ghulam Jaffar and Injuries to 5x other soldiers of the said Regiment; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

To establish the guilt against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3331-P/2018.

Brief history of the petition filed by petitioner Fazal Wahab son of Amir Ghawas Mian is that, convict Zahir Jan, was surrendered to security forces on 25.6.2011 and thereafter he was shifted to Internment Centre Lakki Marwat & Internment Centre Mingora, however, on 11.6.2018, they were informed qua the sentence of convict / internee, while as per record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. On May 2009, he planted an Improvised Devices against military convoy near Kotah, Barikot in which 16x soldiers embraced shahadat. To this effect FIR No. 151 dated 6.12.2012 is lodged. The convict / internee was also involved in destruction of Government Primary School Barikot Colony on night 9/10 of May, 2009. On 25th June 2011, the convict was arrested and interned. During investigation convict / internee recorded his confessional statement before Judicial Magistrate on 25.7.2015 and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against both the accused persons.

Committing a civil offence, that is to
say abetment in attacking the Armed Forces of Pakistan.

In that they, at Barikot (Swat) on 6 May 2009, abetted civilian Nouman and others, by transporting 2x improvised explosive device to attack the convoy of 26 Field Regiment Artillery, in consequence of the said abetment, terrorists carried out attack on the said convoy, which resulted into death of 16x soldiers of the said regiment and damage to 3x vehicle; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Against both the accused persons.

Committing a civil offence, that is to
say to over-awe any section of the public.

In that they, at Barikot (Swat) on 9 May 2009, alongwith civilian Nouman and others overawed the female community of Swat by destroying Government Girls Primary School Fazalabad; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Third Charge.

PAA Section-59

Against accused No.1.

.....
.....

Fourth Charge.

PAA Section-59


Against accused No.1.

.....
.....

Fifth Charge.

PAA Section-59

against accused No.2 only.

 Committing a civil offence, that is to
say possessing fire-arm.

In that he, at Barikot (Swat) on 25 June 2011 was found in possession of following fire-arms and thereby and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

- a. 1x Sub Machine Gun (SMG)
- b. 1x30 Bore Pistol.

Sixth Charge.

PAA Section-59

against accused No.2 only.


Committing a civil offence, that is to say possessing explosive.

In that he, at Barikot (Swat) on 25 June 2011 was found in possession of following explosive and thereby and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

- a. 2x hand grenades.
- b. 2x Kilogram explosive.

To establish the guilt against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to 20 years imprisonment.

WP No. 3323-P/2018.

Brief history of the petition filed by petitioner Mst. Sadaqat Begum is that, her husband i.e. convict Shakirullah when missing and they were in search when through diary No. 1735 dated 11.6.2018 informed qua sentence of the convict /
 internee, while as per record so produced, convict / internee was

affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. In 2009, at Lower Dir, Swat, actively took part in looting of Government Pay Vehicle amounting to 29 Lacs 62 thousand. To this effect FIR No. 59 dated 2.2.2009, was also lodged. On 17 August 2010, was found in possession of illegal fire-arms and explosive. The convict / internee was arrested 17.8.2010 and interned on 9 March, 2014. During investigation he confessed the guilt by recording his confessional statement on 18.2.2016 and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say providing funds for the illegal activities.

In that he, at Lower Dir Swat, during 2009, alongwith others provided an amount of Rupees three Lacs ninety three thousand one hundred and ninety two to terrorist commander Hafeez Ullah for the illegal activities; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arms.

In that he, at Undak Bala (Lower Dir) on 17 August 2010 was found in possession of following fire-arms; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. 1x Sub Machine Gun.
- b. 1x 30 bore Pistol.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Undak Bala (Lower Dir) on 17 August, 2010, was found in possession of following explosive; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2017.

- a. 40x rounds of Sub Machine Gun.
- b. 5x rounds of 12.7 MM Gun.
- c. 1x Improvised Explosive Device.
- d. 1x hand grenade.

To prove the charges against the convict/internee, prosecution produced four Witnesses, who were examined and cross examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to 14 years imprisonment.

WP No. 3240-P/2018.

Brief history of the petition is that, petitioner himself surrendered before security forces on 15.5.2010 in Guli Bagh and thereafter he went missing, however, on 26.6.2018, through letter it was informed that petitioner has awarded death penalty, while as per record so produced before the Court, suggests that convict / internee joined Khafiz Bin Waleed Battalion, a sub-organization of Tehreek-e-Taliban, Swat, and involved in

various activities of terrorist activities. On 3rd August, 2008, the internee / convict alongwith other terrorist attacked the Government Girls Primary School Gulibagh and destroyed the school building. On 13 July 2008, participated in looting the ration from the Army truck. To this effect FIR No. 186 dated 3.8.2008, was lodged. The convict / internee was arrested on June 15 2010 and thereafter interned on 15 March, 2014. During investigation, the convict / internee confessed the guilt by recording his confessional statement on 25.7.2015 and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say destroying educational institution.

In that he, at Gulibagh (Swat) on night 2/3 August, 2008, alongwith other, partially destroyed Government Girls Primary School Guilbagh by burning its furniture and fixtures; and thereby committed an offence punishable under section 16 read with Scheduled offence 1 (xiii) of the Protection of Pakistan Act 2014..

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Alamganj (Swat) on 15 June 2010, was found in possession of three Improvised Explosive Devices, each containing ten kilograms explosives; and thereby

committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3239-P/2018.

Brief history of the petition is that, petitioner himself surrendered before security forces on 15.5.2010 in Guli Bagh and thereafter he went missing, however, on 26.6.2018, through letter it was informed that petitioner has awarded death penalty, while as per record so produced before the Court, suggests that convict / internee joined Jaishe Muhammad in 2001. In 2009, joined terrorist Bilal Group and destroyed 1x electric Pylon near Khwazakhela. Involved in transportation of four Special Services Group personnel from Barrai Bridge to Salai Sar, Balogram. Planted one Improvised Explosive Device on Barrari-Khwazakhela track to target the army vehicles move on road. The convict / internee was arrested on 19 May, 2010 and interned in the year 2011. During the investigation, the convict / internee confessed the guilt by recording his confessional

statement on 3.7.2015 and on commencement of trial, he was

charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to
say abetting in kidnapping employees of armed forces.

In that he, at Dub-Paithom or elsewhere, on 19 April, 2009, abetted Bilal (a Taliban Commander) by performing the duties of armed gun man during transportation of 4x abducted officers / soldiers of Special Service Group from Dub to Paithom, who were later killed by the Taliban's; and thereby committed an offence punishable under section 16 read with Scheduled Offences (1) (v) of the Protection of Pakistan Act, 2014.

Second Charge.

PAA Section-59

Committing a civil offence, that is to
say attempt to use material capable of exploding to kill persons.

In that he, near Cadet College Swat, on 20 July, 2009, alongwith other planted an improvised explosive device, a material capable of exploding, along roadside Mingora-Khawazakhela; and thereby committed an offence punishable under section 16 read with Scheduled Offences (1) (v) of the Protection of Pakistan Act, 2014.

Third Charge.

PAA Section-59

Committing a civil offence, that is to
say possessing explosive.

In that he, at village Barrari (Swat) on 20 May 2010, was found in possession of 2x Improvised Explosive Devices, containing 4 x kilograms explosive; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Five Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3233-P/2018.

Brief history of the petition filed by petitioner Jehan Sehat wife of Fazal Rahim is that, convict / internee was surrendered before security forces in the year 2010 and thereafter he was shifted to internment centre paithon, however, through news clipping it came to know that convict / internee was awarded death punishment, while as per record, so produced before the Court, the convict / internee was affiliated with Tehreek-e-Taliban, Swat (TTS). On 13 August, 2008, at Khwazakhela, (Swat) abetted civilian Abu Nauman and others, by providing protection to the said terrorists at the time of planting explosive at Mobilink Communication Tower, Gashkor, due to which the terrorist destroyed the said Tower. To this effect FIR No. 214 dated 13.8.2008, was lodged. On 25 May, 2010 was found in possession of 5 x kilograms explosive materials. The convict / internee was arrested on 24 May, 2010, and interned on 19 March, 2014. During investigation he

confessed the guilt by recording his confessional statement in the year 2015, and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in attacking civil institution in Pakistan.

In that he, at Khawaza Khela (Swat) on 13 August, 2008, abetted civilian Abu Nauman and others, by providing protection to the said terrorist at the time of planting explosive at Mobilink Communication Tower, Gashkor, in consequence of which the said terrorists destroyed the said tower by exploding the explosives; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Second Charge.
PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Tilligram (Swat) on 25 May 2010, was found in possession of 5x kilograms explosive material; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Five Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3223-P/2018.

Brief history of the petition filed by petitioner Mst. Hussan Bano wife of Sherin Badshah is that, her husband / convict was surrendered before security forces in the year 2009 and thereafter he was shifted to Paithon internment centre, where he was kept, but through news clipping it came to know that convict / internee was awarded death penalty, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat (TTS) in the year 2007, and involved in various terrorist activities. He had participated in Blasting / demolishing Government School Tutano Bandai and Government Primary School Langar / Tal. To this effect FIR No. 196 dated 26.6.2008, was lodged. Participated in number of fire raids on Army Posts at Gampura, Shah Dheri, Tutan Banda, Tighak Gakhay Banda and Deolai. The convict / internee also participated under the Command of Khursheed alias Attique in fight against 24 Baloch Regiment at Kalla Kalle Bridge, wherein 3x soldiers of 24 Balouch Regiment got Shahadat and 3x got injured. The convict / internee was arrested on 19 October, 2009 & interned on 24 March, 2014, where during investigation he confessed the guilt by recording his

confessional statement on 27.10.2015, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Armed Forces of Pakistan.

In that he, at Shah Dheri (Swat) on 25 June 2008, abetted civilian Mutabar Khan and others, by carrying arms and ammunition to attack the check post of 29 Punjab Regiment, in consequence of the said abetment, terrorists carried out attack on the said post, which resulted into death of Naib Subedar Muhammad Hanif, injuries to Sepoy Fiaz and Sepoy Allah Ditta of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Armed Forces of Pakistan.

In that he, at Deolai (Swat) on 2 December, 2008, abetted Civilian Mutabar Khan and others, by carrying out reconnaissance of the route of quick reaction force of and guiding his accomplices to the point of attack, in consequence of the said abetment, terrorist carried out attack on the said force, which resulted into death of Sepoy Shoukat Ali and injuries to Naik Yasir; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Armed Forces of Pakistan.

In that he, at Kalla Kalle (Swat) on 29 June 2009, abetted Civilian Mutabar Khan and others, by providing ammunition, water, food to his accomplices during the attack on the troops,... in consequence of the said abetment,

terrorists carried out attack on the said troops, which resulted into death of Havildar Muhammad Naseer, Havildar Abdul Qayum, Sepoy Muhammad Mumtaz, injuries to Sepoy Ubaid ur Rehman, Sepoy Niaz Hussain and Sepoy Muhammad Waseem; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arms.

In that he, at Kabal (Swat) on 28 October 2009, was found in possession of following fire-arms; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

- a. 1x Sub Machine Gun (SMG)
- b. 1x Heavy Machine Gun (HMG).

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Kabal (Swat) on 28 October 2009, was found in possession of following explosive; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

- a. 80x rounds of Sub Machine Gun (SMG).
- b. 200x rounds of Heavy Machine Gun (HMG).

To prove the charges against the convict/internee,

prosecution produced Five Witnesses, who were examined and

crossed examined and thereafter statement of internee / convict

was recorded and on conclusion of trial the internee / convict

has been convicted and sentenced to 20 years rigorous imprisonment.

WP No. 3197, 3205 & 3651-P/2018.

Brief history of the petitions filed by petitioner's Mohibullah, (father of convict Khalid Khan), Mst. Khurshid Begum (wife of convict Nasir Khan) & Shakeel Ahmad (Step brother of convict Muhammad Ishaq) is that, convicts / internees Khalid Khan, Nasir Khan & Muhammad Ishaq were surrendered before security forces on 25.9.2009, 20.12.2009 & 5.7.2010, respectively, and thereafter they were shifted to Internment Centre Paithom / Central Jail, Kohat. On 28.6.2018 through letter / telephone they were informed regarding sentence of the convicts / internees, whereas record so produced would suggest that convicts / internees joined Tehreek-e-Taliban, Swat (TTS) in the year 2007 & 08 respectively and associated with the said organization and performed guard and patrolling duties with other terrorists of his group. The convicts / internee participated in fire raids on Pak Army Post at Gampura, participated in ambush against QRF ex 29 Punjab in village Godhand, participated in fight against army at Mingora, Kabbal, Sarsinai, Kalla Kalle, Galoch, Tutano Bandai, Deolai, Shah Dheri, Shalhand and Shalkhu, caused damage vide FIR,

placed on file. The convicts / internee participated in blast / demolishing Government High School, Tutano Bandai. Participated in IEDs (Improvised Explosive Devices) against / in the route of convoys of Pakistan Army. Involved in looting the houses of Kamal Khan, Shaukat Khan, Jaffar Khan, Jallat Gujar & Colonel (Retired) Muneer Khan. The convicts / internees were arrested 24, 28 Sept & 14 July 2009, respectively and interned on 24 March, 27 April, 2014, respectively. During investigation, they confessed their guilt by recording confessional statements on 3.9.2015 and on commencement of trial, they were charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against all the accused person.

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that they, Shah Dheri (Swat) on 25 June 2008, alongwith other, attacked the check post of 29 Punjab Regiment, by firing with Kalashnikovs (AK-47) which resulted into death of Naib Subedar Hanif and injuries to Sepoy Fiaz and Sepoy Allah Ditta of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Against accused No. 1, 3, 5, 7 & 8.

Committing a civil offence, that is to say attacking Law Enforcement Agency.

In that they, at Tutan Banda (Swat) on 16 September, 2008, alongwith other, attacked the Frontier Constabulary Post established at Government High School, Tutan Banda, by using Vehicle Borne Explosive Device (VBIED) followed by firing with different caliber weapons, which resulted into death of Sepoy Syed Ikhlas udddin, Sepoy Shah Nazar and injuries to 14x soldiers; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Third Charge.

PAA Section-59

Against accused No. 2, 4 5 & 6.

Committing a civil offence, that is to say abetment in attacking Law Enforcement Agency.

In that they, at Tutan Banda (Swat) during 10-15 September, 2008 abetted Civilian Mutabar Khan and others by carrying out reconnaissance of Frontier Constabulary Post established at Government High School, in consequence of the said abetment, the accused persons, (in the second charge) carried out attack on the said post on 16 September, which resulted into death of Sepoy Syed Ikhlas udddin, Sepoy Shah Nazar and injuries to 14x solders; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Fourth Charge.

PAA Section-59

Against all the accused persons.


Committing a civil offence, that is to say attacking Armed Forces of Pakistan.

In that they, at Deolai (Swat) on 2 December 2008, alongwith other, attacked the quick reaction force of Regiment by firing, which resulted into death of Sepoy Shaukat Ali and injuries to Naik Yasir of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Fifth Charge.

PAA Section-59

Against accused No. 1 & 8.



Sixth Charge.

PAA Section-59

Against accused No. 2, 3, 4 & 6

Committing a civil offence, that is to
say abetment in causing death of a person.

In that they, at Galoch (Swat) on 16
June, 2009, abetted civilian Mutabar Khan and
Rehman uddin by providing them armed cover
during killing of civilian Siraj uddin son of
Muhammad Yaqub, a member of peace
committee, which offence was committed in
consequence of the said abetment; and thereby
committed an offence punishable Pakistan
Army (Amendment) Act, 2015.

Seventh Charge.

PAA Section-59

Against accused No. 1.

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Eight Charge.

PAA Section-59

Against accused No. 1.

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Ninth Charge.

PAA Section-59

Against accused No. 2.


Committing a civil offence, that is to
say possessing fire-arm.

In that he, at Kabal (Swat) on 25
September, 2009, was found in possession of 1x
Sub Machine Gun (SMG); and thereby
committed an offence punishable Pakistan
Army (Amendment) Act, 2015.

Tenth Charge.

PAA Section-59

Against accused No. 2.

 Committing a civil offence, that is to
say possessing explosive.

In that he, at Kabal (Swat) on 25 September, 2009, was found in possession of 70x rounds of Sub Machine Gun (SMG) and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Eleventh Charge.

PAA Section-59
Against accused No. 3.

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Twelfth Charge.

PAA Section-59
Against accused No. 3.

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Thirteenth Charge.

PAA Section-59
Against accused No. 4.

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Fourteenth Charge.


PAA Section-59
Against accused No. 4.

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.....

Fifteenth Charge.

PAA Section-59
Against accused No. 5.

Committing a civil offence, that is to say possessing fire-arm.

 In that he, at Lam Deolai (Swat) on 2 October, 2009, was found in possession of 1x Sub Machine Gun (SMG) and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Sixteenth Charge.

PAA Section-59

Against accused No. 5.

Committing a civil offence, that is to
say possessing explosive.

In that he, at Lam Deolai (Swat) on 2
October, 2009, was found in possession of 90x
rounds of Sub Machine Gun (SMG) and thereby
committed an offence punishable Pakistan
Army (Amendment) Act, 2015.

Seventeenth Charge.

PAA Section-59

Against accused No. 6.

Committing a civil offence, that is to
say possessing fire-arm.

In that he, at Kabal (Swat) on 20 July,
2009, was found in possession of 1x Sub
Machine Gun (SMG) and thereby committed an
offence punishable Pakistan Army
(Amendment) Act, 2015.

Eighteenth Charge.

PAA Section-59

Against accused No. 6.

Committing a civil offence, that is to
say possessing explosive.

In that he, at Kabal (Swat) on 20 July,
2009, was found in possession of 90x rounds of
Sub Machine Gun (SMG) and thereby
committed an offence punishable Pakistan
Army (Amendment) Act, 2015.

Nineteenth Charge.

PAA Section-59


Against accused No. 7.

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Twentieth Charge.

PAA Section-59

Against accused No. 7.



Twenty First Charge.
PAA Section-59
Against accused No. 8.

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Twenty second Charge.
PAA Section-59
Against accused No. 8.

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To prove the charges against the convicts/internees, prosecution produced Six Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts have been convicted and sentenced to 20 years rigorous imprisonment.

WP No. 3203-P/2013.

Brief history of the petition filed by petitioner Alam Sher son of Khair ur Rehman is that, convict / internee was surrendered in the year 2009 to security forces, where-after he was shifted to unknown place. On telephonic message they were informed qua sentence of convict, while as per record so produced before the court, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS, and involved in number of terrorist activities. In December, 2006, took participation in planting an Improvised Explosive Device to Government Girls

Primary School, Malookabad. In January, 2009 participated in fight against Army at Malookabad, Tanki. In January, 2009 participated / abetted in establishing a blocking position against Army at Watkai and actively fought against Army. In February 2009, allegedly participated / abetted in fire raid on Takhtaband Base of Army. The convict / internee was arrested on 16 November 2015 & interned. During investigation, he confessed the guilt by recording confessional statement on 29.5.2017, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Near Malookabad Tanki (Swat) on 5 January, 2009 alongwith others, attacked the troops of..... by firing with Sub Machine Gun; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Watkai (Swat) on 22 January, 2009 alongwith others, attacked the troops of..... by firing with Sub Machine Gun; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Takhtaband Tanki (Swat) on 10 February, 2009 alongwith others, attacked the troops of..... by firing with Sub Machine Gun; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internees / convicts has been convicted and sentenced to 20 years rigorous imprisonment.

WP No. 3202-P/2018.

Brief history of the petition filed by petitioner Syed Luqman Shah son of Syed Umar Shah is that, convict / internee was surrendered in the year 2009 to security forces, where-after he was shifted to unknown place. On telephonic message they were informed qua sentence of convict, while as per record so produced before the court, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS, and involved in number of terrorist activities. In August, 2008, alleged participated / abetted the attack on Police Mobile near Khawaza Khela. The

convict / internee was arrested on 9 November, 2009 & interned on 19 March 2014. During investigation he confessed the guilt by recording his confessional statement on 17.10.2015, and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Law Enforcement Agency.

In that he, near Khawaza Khela (Swat) on 24 August 2008, alongwith other, attacked police mobile by firing with AK-47 riles; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Yakhtangai Babuzai (Swat) on 10 November, 2009, was found in possession of 2x grenades; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to 16 years rigorous imprisonment.

WP No. 2408, 2410 & 4076-P of 2018.

Brief history of the petition filed by petitioner Bashir Khan son of Rehmanuddin (brother of convict Sher Khan), Umardaraz (father of convict Burhanduddin) & Zrawr Khan (paternal cousin of convict Gul Khan) are that, convicts / internees were arrested by the security forces, on 21.11.2017, 16.1.2017 & 12.4.2013, respectively and shifted to unknown place and whereabouts of the detainee were not known, however, through news clipping dated 6.5.2018, they came to know about the sentence, while as per record so produced before the court, convicts / internees were affiliated with Jamat ul Ahrar of Tehreek-e-Taliban, and involved in number of terrorist activities. Convicts / internees allegedly allegedly attended meeting at Parchao Markez Afghanistan in May 2013, alongwith terrorist Comander Abdullah Khaki of Jamat ul Ahrar and Shah Jahan, Shaheer Khan, Gul Faraz, Irfanullah, Said and Asad and finalized plan of suicide blast. Allegedly planned and successfully executed suicidal blast on funeral ceremony of civilian Abdullah, which resulted into death of 30 persons including member of Provincial Assembly, Khyber Pakhtunkhwa , Imran Khan Mohmand and more than 100 persons were injured. Allegedly on 18 June 2013 brought

suicide bomber alongwith co-accused to the place of blast and after identification of the target to suicide bomber, fled from the area. To this effect FIR No. 548 dated 18.6.2013, was lodged. Convicts / internees were arrested 16.1.2017, 16.10.2016 & 28.1.2017, respectively and thereafter they were interned. During investigation they recorded their confessional statement on 16.10.2017 and on commencement of trial, they were charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against all the accused persons.

Committing a civil offence, that is to say abetment in causing death of a person.

In that they, at Zargrano Killi Sher Garh (Mardan) during June 2013, abetted a suicide bomber (name not on record) to attack funeral ceremony of civilian Abdullah, by planning, providing accommodation / suicide jacket and transporting him to the target area, in consequence of the said abetment, he (suicide bomber) carried out suicide attack on the said funeral on 18 June 2013, which resulted into the death of 30 persons; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

against all the accused persons.

Committing a civil offence, that is to say abetment in causing injury to a person.

In that they, at Zargrano Killi Sher Garh (Mardan) during June 2013, abetted a suicide bomber (name not on record) to attack funeral ceremony of civilian Abdullah, by planning, providing accommodation / suicide jacket and transporting him to the target area, in consequence of the said abetment, he (suicide

bomber) carried out suicide attack on the said funeral on 18 June 2013, which resulted into injuries of 100 persons; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internees / convicts was recorded and on conclusion of trial the internees / convicts have been convicted and sentenced to death.

WP No. 2451-P/2018.

Brief history of the petition filed by petitioner Mst. Nargis Bano wife of Izat Khan is that, her husband / convict was surrendered to security forces on 11.4.2010, where-after he was shifted to Internment Centre, Lakki Marwat / Paithon Swat, however, through news clipping it they came to know about the sentence, while as per record so produced before the Court by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Swat (TTS) and involved in attack during February 2009, by participating in the laying of an improvised explosive device (IED) against convoy of 16 Sind Regiment at Shahi Nagar near Shamoza Bridge on 17 February 2009 resulting into injury of four soldiers of 16 Sind Regiment. In March, 2009, allegedly participated / abetted the attack by

physical participation in attack on Malakand University; resulting in shahadat of four policemen and one civilian and serious injury of two policemen and one civilian alongwith destruction of Police Van. In May, 2009, allegedly participated / abetted the attack by physical participation in attack on school at Maniar; resulting in burning and destruction of buildings of Government High School, Government Girls Middle School and Government Girls Primary School Maniar. To this effect FIR's No. 131 dated 6.2.2011, 339, dated 18.3.2009, 62 dated 31.5.2009 were lodged. Convict / internee was arrested on 11 April 2010 and interned on 17 April 2010. During investigation convict / internee confessed the guilt by record confessional statement in 2017 and on commencement of trial, convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in attacking the Armed Forces of Pakistan.

In that he, at Shahi Nagar, during February 2009, abetted terrorist commander Mufti Arshad and others, to attack the convoy of Sind Regiment, by carrying out reconnaissance of the target area, in consequence of the said abetment, the terrorists attacked the said convoy by exploding an Improvised Explosive Device near Shamoza bridge on 17 February 2009, which resulted into injuries to following soldiers of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. Naik Ameen Ullah.
- b. Lance Naik Tahir Mehmood.
- c. Sepoy Safdar Abbas.
- d. Sepoy Nazir Ahmad.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Malakand University, on 18 March, 2009, alongwith others, by firing with Sub Machine Gun, caused death of following police constables / civilian; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. Police Constable Azizullah.
- b. Police Constable Adam Khan.
- c. Police Constable Inayat Ullah.
- d. Police Constable Nazir.
- e. Civilian Khaliq Dad Khan son of Khalid.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say causing injury to a person.

In that he, at Malakand University, on 18 March, 2009 alongwith other by firing with Su Machine Gun, caused injuries to following police constables / civilian; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. Police Constable Rehmat Ullah.
- b. Police Constable Wahid Zaman.
- c. Civilian Farman Ullah son of Farid Ullah.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Maniar (Swat) during night 8/9 May 2009, alongwith others, committed an act of terrorism while causing grievous damage



to Government High School, Government Girls Middle School and Government Girls Primary School Maniar, by exploding / burning the said schools, resulting into complete destruction of said buildings; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017 read with section 6 (2) (c) of the Anti Terrorism Act, 1997.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Shamoza, on 11 April 2010, was found in possession of following fire-arm; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. 2x Sub Machine Gun.
- b. 2x 30 Bore Pistol.

Sixth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Shamoza, on 11 April 2010, was found in possession of following explosive; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. 115x rounds of Sub Machine Gun.
- b. 2x pressure cooker Improvised Explosive Device.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internees / convicts was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 2896-P/2018.

Brief history of the petition filed by petitioner Muhammad Zahir Shah son of Muhammad Nawaz is that, his brother convict / internee Muhammad Zeb was taken into custody by Pak Army and after going through investigation, was released. Prior to General Election of 2013, the convict was again taken into custody and thereafter shifted to Paithom Internment Centre and through news-clipping petitioner came to know qua sentence of convict/ internee, while as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS and involved in number of terrorist activities. In June, 2008, allegedly participated / abetted in attack on Law Enforcement Agency Post at Shah Dheri. In December, 2008, allegedly participated / abetted in attack on Army troops at Deolai. In June 2009 allegedly participated / abetted in attack on Army troops near Kala Kalle Bridge. The convict / internee was arrested on 10 December, 2012 and interned on 10 May, 2014. During investigation he confessed the guilt by recording confessional statement on 11.8.2017 and on commencement of trial, charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that he, at Shah Dheri (Swat) on 25 June 2008, alongwith others, attacked the check post manned by... by firing with weapons of different caliber, which resulted into death of Naib Subedar Muhammad Hanif and injuries to following soldiers of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. Sepoy Muhammad Fayyaz.
- b. Sepoy Allah Ditta.

Second Charge.

PAA Section-59

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that he, at Deolai (Swat) on 2 December, 2008, alongwith others attacked the quick reaction force ex.. regiment, by firing with Sub Machine Guns, which resulted into death of Sepoy Shaukat Ali and Injuries to Naik Muhammad Yasir of the said Regimen; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to
say possessing explosive.

In that he, at Kala Kalle (Swat) on 29 June 2009, alongwith others, attacked the troops of ... by firing with Sub Machine Guns, which resulted into death of following soldiers and injuries to 3x other soldiers of the said regiment; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

- a. Havildar Muhammad Naseer.
- b. Havildar Muhammad Qayyum.
- c. Sepoy Muhammad Mumtaz.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Biakore (Swat) on 25 December, 2012, was found in possession of 2x Sub Machine Gun; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Biakore (Swat), on 25 December, 2012, was found in possession of 100x round of Sub Machine Gun; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 3148-P/2018.

Brief history of the petition filed by petitioner Hasnain Ullah son of Muhammad Saleem is that, his brother / convict Zeeshan Ullah, was taken into custody by security forces and thereafter, was shifted to Faizaghat Swat in the year 2016. On 20.6.2018, they were informed telephonically qua sentence of

convict, while as per record so produced before the Court by the respondents, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS in the year 2009. He received handling weapons training in Fazal Bandai Matta for twenty days. Participated in destruction of Mingora Police Station on 10 May 2009. At the time of arrest, five kilograms Explosive and three Improvised Explosive Devices (3xkilogram) were recovered. The convict / internee was arrested on 9.5.2010 and interned on 19.3.2014. During investigation he confessed the guilt by recording his confessional statement 29.7.2015, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking.

In that he, at Swat during May 2009 alongwith others attacked by firing with different caliber weapons; and thereby committed an offence under section 16 read with Scheduled Offence 1(xiii) of the Protection of Pakistan Act, 2014.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Landi Kas (Swat), on 09 May 2010, was found in possession of following explosive and thereby committed an

offence punishable Pakistan Army
(Amendment) Act, 2015.

- a. 5x kilograms of explosive.
- b. 3x Improvised Explosive Devices (each containing one kilogram explosive).

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3158-P/2018.

Brief history of the petition filed by petitioner Abdul Jalil son of Shah Said is that, his son / convict namely Khaista Muhammad, was surrendered to security forces in 2009 and thereafter he was shifted to Paitham Internment Centre, Swat. The petitioner was informed telephonically qua the sentence, while as per record so produced before the Court by the respondents convict / internee was affiliated with Tehreek-e-Taliab, Swat TTS and involved in number of terrorist activities. The convict / internee involved in attack the Army Post at Dar-ul-Uloom Charbagh on 11 February 2008, destroyed the Government Girls Primary School Zangi on 5 August, 2008 and Pakistan Telecommunication Limited Exchange, Toha on 10 September, 2008. To this effect FIR No. 137 & 227 dated

5.8.08 & 11.9.08, were lodged The convict / internee was arrested on 12.4.2010 and interned on 13.7.2014. During investigation he record confessional statement on 16.10.2017, and on commencement of trial, charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say over-awe any section of the public.

In that he, at Zangi (Swat), on 5 August, 2008, alongwith others, destroyed Government Girls Primary School Zangi by burning to over-awe the female community of Swat; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking civil installation in Pakistan.

In that he, at Khawaza Khela (Swat), on 10 September, 2008, alongwith others, attacked Pakistan Telecommunication Limited Tower Toha by exploding explosive , which resulted into destruction of the said tower; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Dar ul Uloom (Charbagh), on 11 February 2009, alongwith others, attacked the post of... by firing with Kalashnikov (AK-47) which resulted into the death of following soldiers and injuries to Sepoy Zamir of the said regiment; and thereby committed an offence

punishable Pakistan Army (Amendment) Act, 2015.

- a. Havildar Muhammad Maqsood.
- b. Sepoy Rashid Ali.
- c. Sepoy Muhammad Waseem.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Mangaltan (Charbagh) on 12 April 2010, was found in possession of 1x suicide jacket containing 3x kilograms explosive; and thereby committed an offence punishable Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death.

WP No. 3157-P/2018.

Brief history of the petition filed by petitioner Shakeel Ahmad son of Usman Zada is that, his son convict / Usman Zada alias Usman Pirzada, was taken into custody by security forces from Karachi on 18.2.2011 and shifted to Faiza Ghat Swat, Internment Centre, however, petitioner telephonically informed qua sentence, whereas record so produced before the court by the respondents suggests that, convict / internee was

affiliated with Tehreek-e-Taliban, Swat and joined Khalid Bin Waleed Battalion in October, 2007. The convict / internee used to perform duties carrying AK-47 with terrorists at Charbagh Market and Charbagh check post. He also participated in Dar ul Uloom Charbagh fight against army on 11 February 2009 and fired 30 rounds, wherein three soldiers embraced shahadat. He was involved in destruction of Mehboob Market, Charbagh on 25 July 2008. To this effect FIR No. 166 dated 25.7.2008 was lodged. IED containing 5 Kgs explosive was recovered on his pointation. The convict / internee was arrested 5.2.2012 and thereafter interned. During investigation he confessed the guilt by recording confessional statement on 4.9.2015 and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say using materials capable of exploding to destroy property.

In that he, at (Charbagh) Swat during night 24/25 July 2008 alongwith others, used explosive materials, capable of exploding, at the Mehboob Market Charbagh Bazar, the property of civilian Mehboob Yazdani, which resulted into destruction of the said market; and thereby committed an offence punishable under section 16 read with scheduled offences (1) (ii) of the Protection of Pakistan Act, 2014.

Second Charge.

PAA Section-59

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that he, at Dar ul Uloom (Charbagh) Swat on 11 February 2009, alongwith others, attacked the post of 60 Baloch Regiment by firing with AK-47 which resulted into death of following 3x soldiers and injuries to Sepoy Zamir of the said regiment; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

- a. Havildar Muhammad Maqsood.
- b. Sepoy Muhammad Waseem
- c. Sepoy Rashid Ali.

Third Charge.

PAA Section-59

Committing a civil offence, that is to
say possessing explosive.

In that he, at Kot (Charbagh) on 25 May 2012 was found in possession of 1x improvised explosive device containing 5x kilograms explosive; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Seven Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to life imprisonment.

WP No. 3159-P/2018.

Brief history of the petition filed by petitioner Mst.



Shamim wife of Ahmad Jan is that, her son convict / Rasool

Muhammad, in the year 2008, was taken into custody by security forces alongwith others and his whereabouts was not know, however, through telephonically, petitioner was informed qua sentence, while as per record so produced before the court by the respondents, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS and involved in number of terrorist activities. On 26 October, 2007, allegedly participated / abetted the beheading of 3x policemen and 1x civilian near Ningolai, Swat. On 6 January, 2009, allegedly participated / abetted in attack on check post of Frontier constabulary personnel at Bara Bandai, Swat. On 29 January, 2009, allegedly participated / abetted the attack on Army Patrol near Ningolai, Swat. On 1 February 2009 allegedly participated / abetted the attack on Army Personnel at Koza Bandai, Swat. To this effect FIR No.488 dated 26.10.2007 & FIR No. 5 dated 31.7.2009, were lodged. The convict / internee was arrested on 21.6.2012 and interned on 1.2.2013. During investigation he recorded his confessional statement on 27.5.2017, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, near Nangolai (Swat) on 26 October, 2007, abetted civilian Asghar Khan and others, by performing guard duties with Kalashnikov (AK-47) during slaughtering of following policemen and a civilian; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Assistant Sub Inspector Irshad Ali.
- b. Head Constable Anwar Ali Khan.
- c. Head Constable Shere Ahmad.
- d. Civilian Said Rehman son of Fazal Raheem.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law enforcement agency.

In that he, at Bara Bandai (Swat) on 6 January, 2009, alongwith others, attacked the check post of 1 Wing Swat Scouts, by firing with small arms, which resulted into the death of Sepoy Raza Khan of the said Wing; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan / Law Enforcement Agency.

In that he, at Nangolai (Swat) on 29 January, 2009 alongwith attacked the troops of 14 Northern Light Infantry Regiment and Frontier Constabulary by firing with AK-47 and Su Machine Guns, which resulted into the death of following soldiers; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Naik Sajjad Ali ex...
- b.
- c. Lance Naik Aslat Khan ex Frontier Constabulary.

To prove the charges against the convict/internee,

prosecution produced Four Witnesses, who were examined and

crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict has been convicted and sentenced to death penalty.

WP No. 4019-P/2018.

Brief history of the petition filed by petitioner Jamshed Khan son of Lal Said is that, his brother convict / Baz Muhammad was taken by security forces on 8.5.2012 from Kachi Abadi abzi Mandi, Islamabad and shifted to unknown place, thereafter shifted to Ghallani Internment Centre, Mohmand Agency and later on petitioner through media news came to know regarding the sentence, while as per record so produced before the Court by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Mohmand Agency and involved in number of terrorist activities. On 9 January 2009, allegedly participated in a fire raid alongwith other accomplices against Lakaro Post ex Mohammad Rifles. On 5 May 2009, allegedly participated in a physical attack on Spinkai Tangi Post ex Mohmad Rifles which resulted into shahadat of 2x soldiers. Allegedly involved in carrying out armed patrolling in Qandharo and Bedmanai area of Mohmand agency. The convict / internee was arrested on 7.5.2012 and interned on 25.5.2014. During investigation he confessed the

guilt by recording confessional statement on 14.7.2016, and on commencement of trial, convict / interneer was charged with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law Enforcement Agency.

In that he, at Mohmand Agency on 8 January, 2009, alongwith others, attacked Lakaro Post ex Mohmand Rifles, by firing with weapons of different caliber; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the law Enforcement Agency.

In that he, at Mohmand Agency on 4 May, 2009, alongwith others, attacked Spinkai Tangi Post ex 2 Wing Mohmand Rifles, by firing with weapons of different caliber, which resulted into the death of following soldiers of the said Wing; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.


- a. Naik Haleem Khan.
- b. Sepoy Nake Alam.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of interneer / convict was recorded and on conclusion of trial the interneer / convict has been awarded death punishment.

WP No. 3534-P/2018.

Brief history of the petition filed by petitioner Rostam Khan son of Firdost Khan is that, his son namely Abu Zar / convict was surrendered before security forces on 2010 and thereafter he was shifted to Fiza Ghat Swat, Internment Centre and on 11.6.2018 through letter dated 5.7.2018, petitioner came to know qua sentence of the petitioner while, as per record so produced before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS (Musafir Group) in the year 2008 and performed duties at Bandai Markaz. In March, 2009, deputed for protection of Barrari Check Post in Tehsil Khawazakhela. Transported four army commandos from Barrari Check Post to Bulugram, which were later on beheaded. To this effect FIR No. 35 dated 19.4.2009, was lodged. The convict / internee was arrested on 21.2.2011 and interned on 17 September, 2011. During investigation he confessed the guilt by record his confessional statement on 2 September 2015, and on commencement of trial he was charge sheeted with the following charges:-

First Charge.
PAA Section-59

 Committing a civil offence, that is to say kidnapping employees of Armed Forces of Pakistan.

In that he, at Swat on 25 April 2009 abetted Idrees (A Taliban Commander) and others, in kidnapped officers / soldiers of.... By transporting them from Barrari Check Post to Balugram, who were later killed by the Talibans; and thereby committed an offence punishable under section 16 read with scheduled offence (1) (v) of the Protection of Pakistan Act, 2014.

- a.
- b.
- c.
- d.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at village Bandai (Swat) on 26 February 2011, was found in possession one hand grenade; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was convicted and sentenced to life imprisonment.

WP No. 4378-P/2018.

Brief history of the petition filed by petitioner Sher Nawab son of Maiz Ullah Khan is that, his son / convict Sadam Hussain was taken in custody by security forces on 17.2.2017 and shifted to unknown place and through news clipping regarding sentence of convict, while as per record so produced

before the court by the respondents, convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. On 6 May, 2012, convict allegedly involved / participated in attack on security forces (Quick Reaction Force ex 36 Baloch and Tochi Scouts) at Khatti Killi, Shana Khawara which resulted into Shahadat of 17x Soldiers while 39 x soldiers got injured. Convict / internee was arrested on 17.2.2017 and during investigation he confessed the guilt by recording confessional statement on 3.01.2018 and on commencement of trial, was charge sheeted with the following charges:-

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan / Law Enforcement Agency.

In that he, at Khatti Killi, Shana Khawara (North Waziristan Agency) on 6 May 2012, alongwith others, attacked convoy of Quick Reaction Force ex 36 Baloch and Tochi Scouts, by firing with weapons of different caliber; which resulted into death of following 17 x soldiers and injuries to 39x other soldiers; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Sepoy Mukhtiar Ali.
- b. Havildar Ghulam Yasin
- c. Lance Naik Zahid Ali.
- d. Naik Mehboob Ali.
- e. Havildar Syed Ali Ahmad.
- f. Havildar Muhammad Ali.
- g. Sepoy Muhammad Sharif.
- h. Sepoy Muhammad Arif.
- i. Sepoy Zeeshan Haider Khan.
- j. Sepoy Mukhtiar Ali.

- k. Sepoy Zulfiqar Ahmad.
- l. Sepoy Muhammad Awais.
- m. Sepoy Ghazi Khan.
- n. Sepoy Ejaz Ahmad.
- o. Sepoy Younis Khan.
- p. Sepoy Arshad Iqbal.
- q. Signalman (operator signal) Ahmed Khan.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4389-P/2018.

Brief history of the petition filed by petitioner Abdul Haleem son of Gul Zareen is that, his brother / convict namely Arafat was arrested by security forces, shifted to unknown place and later on it was known that convict / internee was held in Internment Centre, Kohat where on visitation convict /internee informed regarding the sentence, while as per record so produced by the respondents before the Court, convict / internee was affiliated with Tehreek-e-Taliban, Pakistan in the year 2009, and was close associated of Hakimullah Mehsud (Ameer of Tehreek-e-Taliban). The convict / internee allegedly facilitated / provided the leadership of Tehreek-e-Taliban vehicles for Vehicle Borne Improvised Explosive Devices attack. 4x suicide

jackets, 6x Kalashnikovs, 2x thousand bullets, explosive, 12x hand grenades and detonators. The convict / internee was wittingly involved in providing a vehicle (Toyota Corolla 1994 Model from his bargain centre at Miranshah NWA, FATA for the terrorist attack on mosque at Parade Lane Rawalpindi on 4 December, 2009, killing innocent people. The convict /internee wittingly facilitated the terrorist ex TTP (Hakeem Ullah Mehsud) by supplying explosive from Miranshah NWA FATA to Islamabad for use in VBIED attack on Marriot Hotel, Islamabad on 20 September 2008 in which 70 persons were killed and 250 persons were injured. The convict / internee was arrested by security forces on 6 December, 2014 and interned on 13 June 2016. During investigation he confessed the guilt by recording confessional statement on 29.6.2016 and on commencement of trial, was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Islamabad during 2008, abetted civilian Sakhi Marjan, a suicide bomber, by providing him transport from Miranshah to Islamabad to execute a suicidal attack on Marriot Hotel Islamabad, in consequence of the said abetment, the said suicide bomber carried out suicidal attack on the said hotel on 20

September 2008, which resulted into death of 70x persons; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing injuries to persons.

In that he, at Islamabad during 2008, abetted civilian Sakhi Marjan, a suicide bomber, by providing him transport from Miranshah to Islamabad to execute a suicidal attack on Marriot Hotel Islamabad, in consequence of the said abetment, the said suicide bomber carried out suicidal attack on the said hotel on 20 September 2008, which resulted into injuries of 250x persons; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Rawalpindi during 2009, abetted civilian Qudarat Ullah and Waheed Ullah, by providing transport, weapons and explosive to execute attack on the mosque of Parade Lance Rawalpindi, in consequence of the said abetment, the said terrorists and others carried out attack on the said mosque on 4 December, 2009, which resulted into death of 40x persons; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

Fourth Charge.

PAA Section-59


Committing a civil offence, that is to say abetment in causing injury to persons.

In that he, at Rawalpindi during 2009, abetted civilian Qudarat Ullah and Waheed Ullah, by providing transport, weapons and explosive to execute attack on the mosque of Parade Lance Rawalpindi, in consequence of the said abetment, the said terrorists and others carried out attack on the said mosque on 4

December, 2009, which resulted into injuries of 80x persons; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4434-P/2018.

Brief history of the petition filed by petitioner Gul Bahader son of Abdul Mir Khan is that, his nephew / convict Khiwal Muhammad was arrested by the security forces and shifted to unknown place and they came to know through news clipping qua the sentence, whereas record so produced by the respondents would suggest that convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. On 22 April 2010, alongwith other accomplices participated in conduct of an ambush on security forces convoy in Miranshah road which resulted into death of 6x soldiers. The convict / internee was arrested on 8.2.2017 and during investigation confessed the guilt by recording  confessional statement on 1.1.2018. On commencement of trial,

the convict / internee was charge sheeted with the following charge:-

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Force of Pakistan.

In that he, at Hamzoni Miranshah (North Waziristan Agency) on 22 April, 2010, alongwith others, attacked the convoy by firing with weapons of different caliber, which resulted into death of following officer / soldiers and injuries to 39x others; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Captain Bilal Kamran.
- b. Havildar Yousaf Khan.
- c. Sepoy Javed Iqbal.
- d. Sepoy Shamas Ullah.
- e. Technical Assistant Syed Zafar Abbas.
- f. Sepoy Akhtar Muhammad Afridi.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No.4458-P/2018.

Brief history of the petition filed by petitioner Saira Bibi is that, her husband Ali Sher / convict was surrendered in April 2010 to security forces, who shifted him to Fizagat Internment Centre, where-after petitioner through news-clipping came to know regarding the sentence, while as per record so produced

before the court by the respondents, convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS and involved in number of terrorist activities. In July 2008, allegedly participated / abetted in destroying the school record and property of Government Primary School Langar. In May, 2009 allegedly participated / abetted in attack on Army at Mingora. To this effect FIR No. 244 dated 20.7.2008, was lodged. The convict / internee was arrested on 18 September, 2009 & interned on 11 February 2012. During investigation he confessed the guilt by recording confessional statement on 18.10.2017, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terrorism.

In that he, at Langar (Swat) on 20 July 2008, alongwith others, committed an act of terrorism while causing grievous damage to Government Primary School Langar, by burning / destroying the furniture and equipment of the said school; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (20 (c) of the Anti Terrorism Act, 1997.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Mingora (Swat) on 12 May 2009, alongwith others, attacked the task force conducting search / evict operation against the terrorists, by firing with AK-47, which resulted into death of Sepoy Ghulam Jilanni Khan of the said battalion; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Mian Khanay (Swat) on 23 January, 2011, was found in possession of 1x AK-47; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Mian Khanay (Swat) on 23 January 2011, was found in possession of following explosive; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. 2096x rounds of AK-47
- b. 1309x rounds of 7 Millimeter Rifle.
- c. 38x Rocket of Rocket Propelled Grenade-7

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4459-P/2018.

Brief history of the petition filed by petitioner Muhammad Aziz son of Abdur Rashid is that, his brother Muhammad Bashir / convict was arrested by the security forces and there after was shifted to Internment Centre Kohat, however, through news petitioner came to know qua sentence, while as per record so produced by the respondents, the convict internee was with Sipah-e-Sahaba Pakistan and involved in number of terrorist activities. On 18 December, 2005, at Peer Latif Shah Darbar near Dera Ismail Khan, the convict alongwith accomplices killed a Shia civilian Mukhtiar Hussain by firing multiple rounds of pistol. At Link Canal Raod in Prova area, DI Khan on 18 April 2008, the convict alongwith others killed Shaia civilian Ghulam Baqir with his 222 Machine Gun. On 10 May 2008, at Sugran Bazar opposite Kassaban Street DI Khan, the convict alongwith accomplices killed a Shia civilian Abbas. FIR No. 851 dated 18.12.2005, FIR No. 133 dated 20.4.2007 FIR No. 248 dated 10.4.2008, FIR No. 509 dated 21.11.2008, were lodged to this effect. The convict / internee was arrested on 1.11.2009 and interned on 16.8.2017. During investigation he recorded his confessional statement on 18.10.2017 and on

commencement of trial, the convict / internee was charge

sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Dera Ismail Khan on 18 December, 2005, abetted Terrorist Azeem Moavia alias Ali in commission of the offence of causing death of civilian Mukhtiar Hussain son of Abdul Hameed, by transporting / providing armed protection, in consequence of the said abetment; the said civilian was killed by terrorist Azeem Moavia; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say an act of terroris.

In that he, at Dera Ismail Khan on 20 April, alongwith others, committed an act of terrorism by firing Rocket Propellant Grenade-7 at the residence of Atta ur Rehman son of Mufti Mahmud, which was likely to cause death or endangers a person's life; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (2) (d) of the Anti Terrorism Act 1997.

Third Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Dera Ismail Khan on 18 April 2008, alongwith others, caused death of civilian Ghulam Baqir son of Ghulam Qadir by firing; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Dera Ismail Khan on
Alongwith others caused death of following
civilians by firing with Kalashnikov; and
thereby committed an offence punishable under
Pakistan Army (Amendment) Act, 2017.

- a. Civilian Mazhar Abbas.
- b. Civilian Tanveer Hussain.
- c. Civilian Khaddim Hussain.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Bakhar during October, 2008 alongwith others abetted terrorist Sadiq Ullah (a suicide Bomber) by transporting him from Dera Ismail Khan to Bakhar, in consequence of the said abetment, the said suicide bomber carried out suicidal bomb blast at the residence of civilian Rasheed Akbar Niwani son of Ghulam Akbar Khan, a Member of national Assembly on 6 October, 2008, which resulted into death of 21x individuals; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Sixth Charge.

PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Dera Ismail Khan on 21 November, 2008, alongwith others caused death of Moulana Nazir Hussain Naqvi son of Syed Ghulam Shabbir Shah resident of Mohallah Hayat Ullah, Dera Ismail Khan, by firing with 30 bore pistol; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Seventh Charge.

PAA Section-59

Committing a civil offence, that is to say causing injury to a person.

In that he, at Dera Ismail Khan on 21 November, 2008 alongwith others caused injury to civilian Asghar Shah son of Muhammad Akbar, by firing with 30 bore pistol; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4486-P/2018.

Brief history of the petition filed by petitioner Mst. Fatiha Bibi is that, her husband / convict Dawood Shah, was surrendered to security forces on 28.8.2009, who was later on shifted to Internment Centre Lakki Marwat and through letter dated 11.9.2018, she was informed qua sentence, while as per record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Swat and involved in number of terrorist activities. During December, 2008, allegedly participated / abetted the attack on Pakistan Army Troops at Deolai, Swat. In June 2009, allegedly participated /abetted the attack on Pakistan Army Camp at Kabal. During June, 2009 allegedly participated / abetted in attack of civilian

✓ Siraj uddin son of Muhammad Yaqoob Khan which resulted in his death. During June 2008 allegedly participated / abetted the attack on Pakistan Army Troops at Kala Kalle Bridge, District Kabal, Swat. The convict / internee was arrested on 28.8.2009 and interned on 18.4.2015. During investigation he confessed the guilt by recording confessional statement on 4.11.2017, and on commencement of trial, was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Deolai (Swat) on 2 December, 2008, alongwith others attacked the convoy of.. by firing with AK-47 which resulted into death of Sepoy Shaukat Ali and injuries to Naik Muhammad Yasir of the said regiment; alongwith others caused injury to civilian Asghar Shah son of Muhammad Akbar, by firing with 30 bore pistol; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Kabal (Swat) on 12 June 2009, alongwith others attacked the Army camp Kabal, by firing with 120 Millimeter Mortar, which resulted into the death of Naik Iftikhar Ali of; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

/

Third Charge.
PAA Section-59

Committing a civil offence, that is to say causing death of a person.

In that he, at Galoch (Swat) on 16 June 2009, alongwith others caused death of civilian Siraj ud Din son of Muhammad Yaqoob Khan, by firing with AK-47; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fourth Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Kala Kalle (Swat) on 29 June 2009, alongwith others attacked the troops of.. by firing with AK-47, which resulted into death of following soldiers and injuries to 3x other soldiers of the said regiment; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Havildar Muhammad Naseer.
- b. Havildar Muhammad Qayyum Ahmad.
- c. Sepoy Muhammad Mumtaz.

Fifth Charge.
PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Galoch (Swat) on 7 November, 2011, was found in possession of 1x AK-47; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

To prove the charges against the convict/internee,

prosecution produced Four Witnesses, who were examined and

crossed examined and thereafter statement of internee / convict

was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4502-P/2018.

Brief history of the petition filed by petitioner Bibi Rafa is that, her husband / convict Hafiz Abdullah, on 1.9.2010, was arrested by the security forces and his whereabouts was not known. It was on 11.9.2018 when through news clipping it came to know qua the sentence, while as per record so produced before the Court, the convict / internee was affiliated with Tehreek-e-Taliban, Pakistan Sakhi Group and involved in number of terrorist activities. On night 25/26 March, 2010, at Kalaya, Orakzai Agency, alongwith others attacked the security forces by firing with Sub Machine Gun, which resulted into death of four person of Frontier Corps and 11 got injured. The convict / internee was arrested on 2.9.2010 and interned on 23.8.2016. During investigation he confessed the guilt by recording confessional statement on 22.5.2017. On commencement of trial, the convict / internee was charge sheeted with the following charge:-

PAA Section-59



Committing a civil offence, that is to say attacking the Law Enforcement Agency.

In that he, at Kalaya (Orakzai Agency) during night 25/26 March, 2010 alongwith others, attacked Shina Naka/ Mian Ziarat Check Posts manned by Frontier Corps / Frontier Constabulary by firing with weapons of different caliber, which resulted into death of following officer / soldiers and injuries to 15x other soldiers of the said law enforcement agencies; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Lieutenant Colonel Anwar Abbas.
- b. Naik Ahmad Ullah
- c. Havildar Taj Khan.
- d. Sepoy Rabit Khan.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4536-P/2018.

Brief history of the petition filed by petitioner Yar Wali son of Khano is that, his son Mujahid Ali / convict was arrested by the security forces and shifted to unknown place and through news dated 17.8.2018, it came to know that convict was awarded death sentence, while as per record of respondents the convict / internee was affiliated Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. During 2012, at Sheikhmaal Khel, Kandikotal, convict alongwith others allegedly planted twin Improvised Explosive Device attack on

Government Boys Primary School, resulted into death of one Khassdar soldier and injuries to 2 others, besides causing destruction to the school building. In 2012, at Sheikmal Khel, Kandikotal, Khyber Agency, alongwith other accomplices planted an Improvised Explosive Device attack outside house of Haji Hait Khan and threatened him to provide extortion money. At Sheikmal Khel, Khyber Agency, in April 2012, alongwith other terrorist Mujahid carried out Improvised Explosive Device attack on Government Girls Primary School at Taleb Khel resulted into destruction of 4x class rooms, veranda and boundary wall. The convict / internee was arrested on 1st May, 2012 and interned. During investigation he confessed the guilt by recording his confessional statement and on commencement of trial, the convict / internee was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against both the accused persons.

Committing a civil offence, that is to say an act of terrorism.

In that they, at Khyber Agency on 1 April, 2012, alongwith Terrorist Maaz, committed an act of terrorism by planting / exploding improvised explosive device outside the residence of civilian Haji Hajat Khan resident of Sheikmal Khel, Tehsil Landikotal, which was likely to cause death or endangers a person's life; and thereby committed an offence punishable under Pakistan Army (Amendment)

Act, 2017 read with section 6 (2) (d) of the Anti Terrorism Act, 1997.

Second Charge.

PAA Section-59

against both the accused persons.

Committing a civil offence, that is to say an act of terrorism.

In that they, at Khyber Agency on 28 April, 2012, committed an act of terrorism while causing grievous damage to Girls Primary School Sheikmal Khel, Tehsil Landikotal, by planting / exploding 2x improvised explosive device inside said school, resulting into destruction of 4x rooms, a veranda and boundary wall of the said school; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (2) (d) of the Anti Terrorism Act, 1997.

Third Charge.

PAA Section-59

against the accused No.2.

Committing a civil offence, that is to say an act of terrorism.

In that he, at Khyber Agency on 23 January 2012, alongwith Terrorist Gulzar, committed an act of terrorism while causing grievous damage to Government Boys Primary School Sheikmal Khel, Tehsil Landikotal, by planting / exploding Improvised Explosive Device inside the said school, resulting into destruction of 2x rooms and a veranda of the said school; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (2) (d) of the Anti Terrorism Act, 1997.

Fourth Charge.

PAA Section-59

against accused No.2.

Committing a civil offence, that is to say attacking the Law Enforcement Agency.

In that he, at Khyber Agency on 24 January 2012, attacked the officials of Khasadar Force visiting Government Boys Primary

School Sheikhmal Khel after explosion of an Improvised Explosive Device as averred in the particulars of third charge, by exploding another Improvised Explosive Device planted in the said school which resulted into death of Sepoy Murtaza and injuries to following official / person; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Khassadar Waliullah.
- b. Civilian Abdullah son of Abdul Salam.

To prove the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4603-P/2018.

Brief history of the petition filed by petitioner Amir Rehman son of Amir Maqam is that, his son / convict namely Nadir Khan was surrendered to security forces in the year 2009 and thereafter he was shifted to Central Jail, Kohat, where during visitation, it was came to know qua sentence, while as per record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Swat TTS and involved in number of terrorist activities. During June, 2009, allegedly participated / abetted the attack on Pakistan Army Troops at Dambarsar, Swat, resulting in death of Havildar. In

July 2009, allegedly participated / abetted the attack on Pakistan Army Troops at Shah Dheri, Swat, resulting in death of Lance Naik Wajid Mehmood. The convict / internee was arrested on 4.7.2010 and interned on 27.4.2014. During investigation, he confessed the guilt by recording confessional statement on 4.8.2017, and on commencement of trial, the convict / internee was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Dambarsar (Swat) on 24 June 2009, alongwith terrorist commander Abbas and others, attacked the army check post manned by.. by firing with rifle Ak-47, which resulted into death of Havildar Muhammad Ismail of the same regiment; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.
PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at Shah Dhe (Swat) on 9 July 2009, alongwith terrorist Commander Abbas and others, attacked the army check post manned by.. by firing with rifle Ak-47, which resulted into death of Lance Naik Wajid Mehmood of the same regiment; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Third Charge.
PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Shah Dheri (Swat) on 15 July 2010, was found in possession of 1x rifle (AK-47); and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fourth Charge.
PAA Section-59

Committing a civil offence, that is to say possessing explosive.

In that he, at Shah Dheri (Swat) on 15 July 2010, was found in possession of 100x rounds of rifle (AK-47); and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

To establish the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4759-P/2018.

Brief history of the petition filed by Rafiqullah brother of convict is that, Ainullah, convict / internee was arrested by the security agencies in October, 2009, and there-after shifted to


Internment Centre, Kohat. On 29.9.2019 through news clipping

it came to know qua sentence of the detenue, while as per

record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. On 9 October, 2009, facilitated terrorist Ishaq by making vehicle Borne Improvised Explosive Device and handing it over to Terrorist Ishaq who later on blasted it at Suicarno Chowk, Khyber Bazar, Peshawar, which resulted in Death of 48 Civilians and injuring 109 innocent people. At Dera Ismail Khan, on 23 January, 2009, facilitated by providing vehicle NCP Corolla-7169 to terrorist Ishaq and terrorist Usman who used it for kidnapping two innocent civilians namely Basit Ali son of Ayub Ali (Owner of Bangash Medical Store) and Adnan son of Mr. Ayub. To this effect FIRs No. 476 dated 9.10.2009, 79 dated 23.1.2009, were lodged. The convict / internee was arrested on 9.11.2009, interned on 1.4.2016. During investigation he confessed the guilt by recording his confessional statement on 4.12.2017, and on commencement of trial, he was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to say abetment in abducting any person for ransom.

 In that he, at Dera Ismail Khan during January 2009, abetted terrorist Commander

Jamshed and others, to abduct civilian Basit Ali son of Ayub Ali, by carrying out reconnaissance and providing vehicle, in consequence of the said abetment, said civilian alongwith civilian Muhammad Adnan son of Muhammad Ayub were abducted for ransom by the said terrorists on 23 January 2009 near Vocational Girls College DI Khan; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Tank (Dar Ul Sharia markez) during October, 2009, abetted Terrorist Commander Jamshed by designing a vehicle Hilux for preparation of vehicle Borne Improvised Explosive Device, in consequence of the said abetment, Terrorist Commander Ishaq exploded the said Vehicle Borne Improvised Explosive Device at Suikarno Chowk, Khyber Bazar Peshawar on 9 October, 2009, which resulted into death of 48x persons; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.


Third Charge.

PAA Section-59

Committing a civil offence, that is to say abetment in causing injury to a person.

In that he, at Tank (Dar Ul Sharia Markez) during October, 2009, abetted Terrorist Commander Jamshed, by designing a vehicle Hilux for preparation of Vehicle Borne Improvised Explosive Device, in consequence of the said abetment, Terrorist Commander Ishaq exploded the said Vehicle Borne Improvised Explosive Device at Suikarno Chowk, Khyber Bazar Chowk, Peshawar on 9 October, 2009, which caused injuries to 109x person; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

To establish the charges against the convict/internee,

 prosecution produced Four Witnesses, who were examined and

crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4800-P/2018.

Brief history of the petition filed by Muhammad Yasin Khan is that, his father convict Naik Wali was arrested by the security forces in the year 2009 and thereafter his whereabouts were not known, however, through news clipping petitioner came to know about the sentence, while as per record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliba, Pakistan and involved in number of terrorist activities. At Sarwakai, South Waziristan Agency, on 16 August, 2007, convict alongwith others attacked the convoy of security forces with small and heavy arms, which resulted into death of six security personnel including an officer and injuries to 13 x soldiers of Pakistan Army. At Sararogha, South Waziristan Agency, on 22 January, 2008, the convict alongwith others attacked security forces deployed at Siplatio Fort thus causing injury to one soldier of Frontier Corps. The convict / internee was arrested on 26.2.2016 and interned on 7.10.2017. During investigation he confessed the guilt by recording his confessional statement on 10.6.2017, and on

commencement of trial, he was charge sheeted with the following charges:-

First Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan.

In that he, at South Waziristan Agency, on 16 August 2007, alongwith others, attacked the convoy of 5 Sind Regiment, moving from Sarwakai to Jandola, by firing with weapons of different caliber, which resulted into death of following officers / JCO / Soldiers, injuries to 13 x other soldiers as well as took along official arms and equipment's; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Lieutenant Umer Javed.
- b. Subedar Muhammad Mohsin Khan.
- c. Havildar Amir Muhammad.
- d. Sepoy Atif Ali.
- e. Sepoy Bakshal Ali.
- f. Sepoy Hafiz Samiullah.


Second Charge.

PAA Section-59

Committing a civil offence, that is to say attacking the Law Enforcement Agency.

In that he, at South Waziristan Agency, on 22 January, 2008, alongwith others, attacked Siplatio Fort occupied by the troops of 1 Wing South Waziristan Scouts by firing with weapons of different caliber, which resulted into injuries to Sepoy Rahim Gul of the said Wing; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

To establish the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and

 crossed examined and thereafter statement of internee / convict

was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 3616-P/2018.

Brief history of the petition filed by petitioner Gul Bahadar Khan is that, Suliman Bahader / convict was arrested by the security forces on 18.10.2016 and shifted to Kohat Internment Centre, where he was kept and later on petitioner was informed qua sentence, whereas record so produced is suggestive that convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. During the year 2010 to 2014, convict remained active facilitator of Terrorist Commander Afsar Ali alias Pashtoon, allegedly used to obey his instructions. In November, 2014, convict alongwith others allegedly carried out an Improvised Explosive Device attack on convoy in which one soldier embraced shahadat and four soldiers were injured at Naurer Tochi Nullah. To this effect FIRs No. 48 dated 9.2.2016, 47 dated 9.2.2016 & 255 dated 11.11.2014, were lodged. The convict / internee was arrested on 18.10.2016 and interned on 19.12.2016. During investigation he recorded his confessional statement on 17.10.2017, and on commencement of trial he was charge sheeted with the following charges:-

First Charge.
PAA Section-59

Committing a civil offence, that is to
say attacking the Armed Forces of Pakistan.

In that he, at Bannu Jani Khel (District Bannu) on 11 November, 2014, alongwith others, attacked convoy of Azad Kashmir Regiment at Naurer, Tochi Nullah, by planting / exploding an Improvised Explosive Device, which resulted into death of Sepoy Iftikhar Ahmad and injuries to following Junior Commissioned officer / soldiers of the said regiment; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Subedar Muhammad Akram.
- b. Sepoy Yasir Muzaffar.
- c. Sepoy Qaiser Niazi.
- d. Sepoy Muhammad Irfan.

Second Charge.
PAA Section-59

Committing a civil offence, that is to
say an act of terrorism.

In that he, at Bannu on 9 February 2016, alongwith others, committed an act of terrorism by firing with Kalashnikovs outside the residence of civilian Shaheen Ullah, which was likely to cause death or endanger a person's life; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (20) (d) of the Anti-Terrorism Act, 1997.

Third Charge.
PAA Section-59

Committing a civil offence, that is to
say an act of terrorism.

In that he, at Bannu on 9 February 2016, alongwith others, committed an act of terrorism by firing with Kalashnikovs outside the residence of civilian Zia ul Haq, which was likely to cause death or endanger a person's life; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017 read with section 6 (2) (d) of the Anti Terrorism Act, 1997.

Fourth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing fire-arm.

In that he, at Bannu on 18 October 2016, was found in possession of following fire-arms; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. 1x Sub Machine Gun fitted with drum magazine.
- b. 1x Kalakofe fitted with normal magazine.
- c. 2x pistols with spare magazines.

Fifth Charge.

PAA Section-59

Committing a civil offence, that is to say possessing explosive.


In that he, at Bannu on 18 October, 2016, was found in possession of following explosive; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. 20x rounds of Sub Machine Gun.
- b. 10x rounds of Kalakofe.
- c. 10x rounds of pistol

To establish the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

WP No. 4309 & 4308-P/2018.

Brief history of the petitions filed by petitioners Sakhi

 Marjan (father of convict Zar Muhammad) and Allah Noor

brother of (convict Alif Khan) are that, both the convicts were arrested on 18.4.2017 & 31.3.2017, respectively and thereafter they were shifted to Central Jail, Kohat and through print media, they came to know about the sentence, while as per record so produced before the Court by the respondents, the convicts / internees were involved in alleged explosion of improvised device upon security forces of 133 Wing South Waziristan, Scouts, near Zoaiba Post-2 Angoor Adda and resulted 2 Shaheed namely Naib Subedar Gul Tayaz, Lance Naik Muhammad Rafique and 2 others namely Lance Naik Abdul Razzak and Sepoy Shoaib of 133 Wing. The convicts / internees were arrested on 21.4.2017 & 31.3.2017, respectively and interned on 20.10.2017. During investigation they confessed the guilt by recording confessional statement in July 2017. On commencement of trial, they were charge sheeted with the following charges:-

First Charge.

PAA Section-59

Against all the accused persons.

Committing a civil offence, that is to say attacking the law enforcement agency.

In that they, near Zoaiba-2 post Angoor Adda (South Waziristan Agency) on 22 March, 2017, alongwith terrorist commanders Nasrullah and Behnoor, attacked the troops of 133 Wing South Waziristan Scouts, by planting / exploding 2x Improvised Explosive Devices, which resulted into death of following soldiers

and injuries to 2x other soldiers of the said Wing; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Naib Subedar Gul Tayaz.
- b. Lance Naik Muhammad Rafiq.

Second Charge.

PAA Section-59
against accused No.1.

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Third Charge.

PAA Section-59
against accused No.1.

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Fourth Charge.

PAA Section-59
against accused No.3.

Committing a civil offence, that is to say possessing fire-arm.

In that he, at village Aizah, near Angoor Adda (South Waziristan Agency) on 31 March, 2017, was found in possession of following fire-arms; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. 1x Sub Machine Gun.
- b. 1x 30 bore pistol.
- c. 2x Magazines of pistol.
- d. 2x magazines of Heavy Machine Gun.

Fifth Charge.

PAA Section-59
against accused No.3.

Committing a civil offence, that is to say possessing explosive.

In that he, at village Aizah, near Angoor Adda (South Waziristan Agency) on 31 March, 2017, was found in possession of following explosive; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- 
- a. 8x rounds of Rocket Propelled Grenade-7.
 - b. 7x Propelled Charges of Rocket Propelled Grenade-7 (large)

- c. 12x Propelled Charges of Rocket Propelled Grenade-7(small)
- d. 124x rounds of 7.62 millimeter.
- e. 22x rounds of pistol.
- f. 9x Grenades with Fuze.
- g. 2x Kilograms Explosives.

To establish the charges against the convicts/internees, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internees / convicts was recorded and on conclusion of trial the internees / convicts were awarded death penalty.

WP No. 4558-P/2018.

Brief history of the petition filed by petitioner Ajmal Khan son of Pathi Khel is that, his son / convict Bakhtullah Khan was arrested on 24.7.2017 by the security forces and shifted to unknown place. On 11.9.2018 through media news clipping petitioner came to know qua sentence, while as per record, so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban, Pakistan and involved in number of terrorist activities. On 6 May 2012, convict allegedly participated in an attack on security forces (Quick Reaction Force ex-36 Baloch and Tochi Scouts) at Khatti Killi, Shana Khawara which resulted into shahadat of 17x soldiers while 39 x soldiers got injured. The convict / internee was apprehended

 on 28 July 2017 and thereafter during investigation confessed

the guilt by recording confessional statement on 1.1.2018. On commencement of trial, convict / interneer was charge sheeted with the following charge:-

PAA Section-59

Committing a civil offence, that is to say attacking the Armed Forces of Pakistan / Law Enforcement Agency

In that he, at Khatti Killi (North Waziristan Agency) on 6 May 2012, alongwith others, attacked the Quick Reaction Force of 36 Baloch and Tochi Scouts, by firing with weapons of different caliber, which resulted into death of following soldiers and injuries to 39x soldiers; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

- a. Sepoy Mukhtiar Ali.
- b. Havildar Ghulam Yasin.
- c. Lance Naik Zahid Ali.
- d. Naik Mehboob Ali.
- e. Havildar Syed Ali Ahmed Shah.
- f. Havildar Muhammad Ali.
- g. Sepoy Muhammad Sharif ex 36 Baloch.
- h. Sepoy Muhammad Arif ex 36 Baloch.
- i. Sepoy Zeeshan Haidr Khan ex 36 Baloch.
- j. Sepoy Mukhtar Ali ex 36 Baloch.
- k. Sepoy Zulfiqar Ahmad ex 36 Baloch.
- l. Sepoy Muhammad Awias ex 36 Baloch.
- m. Sepoy Ghazi Khan ex 36 Baloch.
- n. Sepoy Ejaz Ahmad ex 36 Baloch.
- o. Sepoy Younis Khan ex 36 Baloch.
- p. Sepoy Arshad Iqbal ex 36 Baloch.
- q. Signalmen (operator signal) Ahmad Khan ex 463 Signal Company.

To establish the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of interneer / convict was recorded and on conclusion of trial the interneer / convict was awarded death penalty.

WP No. 3650-P/2018.

Brief history of the petition filed by petitioner Pir Zada son of Azeem Khan is that, his son Zia ur Rehman / convict was arrested by the security forces on 28.7.2015 and shifted to unknown place. Petitioner searched for his son but in vain, however, after passing of three years, petitioner came to know regarding the sentence, while as per record so produced by the respondents, the convict / internee was affiliated with Tehreek-e-Taliban Swat TTS and involved in number of terrorist activities. In July 2015, convict allegedly alongwith others accomplices masterminded and planned the attack on Superintendent of Police Elite Fore Bannue which resulted into death of.... In 2012 the convict was allegedly involved in killing of Law Enforcement personnel to include Police Constable, Raj Muhammad, constable Iftikhar, constable Ijaz and constable Sabir Khan. To this effect FIRs No. 65 dated 16.7.2015, FIR No. 784 dated 26.10.2012, FIR No. 1239 dated 13.12.2013, FIR No. 45 dated 24.1.2014, FIR No. 93 dated 7.12.2015 & FIR No. 80 dated 23.10.2015, were lodged

The convict / internee was arrested on 28 July 2015 and during investigation he recorded his confessional statement on

17.10.2017. On commencement of trial, he was charge sheeted

with the following charges:-

First Charge.

PAA Section-59

against accused No.1.

Committing a civil offence, that is to say abetment in causing death of a person.

In that he, at Meer Ahmed Khel (Swabi) on 18 July 2015, abetted civilian Javid Khan alias Zarar (accused No.2) and other in causing death of.... Superintendent of Police, Elite Fore Bannu, by pointing / identifying him to civilian Javid Khan, in consequence of the said abetment, civilian Javid Khan alias Zarar (accused No.2) killed the said police officer by firing with 30 bore pistol; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Second Charge.

PAA Section 59

against accused No.2.

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.....

Third Charge.

PAA Section-59

against accused No.1.

Committing a civil offence, that is to say causing death of a person.

In that he, at Dagai Yaar Hussain road (Swabi) on 26 October, 2012, alongwith others by firing with 9 millimeter pistol caused death of Head Constable Raj Muhammad, Swabi Police Special Branch; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fourth Charge.

PAA Section-59

against accused No.1.

Committing a civil offence, that is to say causing death of a person.

In that he, at Swabi-Topi Raod (Swabi) on 23 December, 2013, alongwith others by firing with 9 millimeter pistol caused death of Police Constable Iftikhar Ali & Ijaz; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Fifth Charge.
PAA Section-59
against accused No.1.

Committing a civil offence, that is to say causing death of a person.

In that he, at Mardan-Swabi road (Swabi) on 24 January 2014, alongwith others by firing with 9 millimeter pistol caused death of Police Constable Muhammad Sabir Khan, of Special Branch; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2017.

Sixth Charge.
PAA Section 59
against accused No.2.

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Seventh Charge.
PAA Section 59
against accused No.2.

.....
.....

To establish the charges against the convict/internee, prosecution produced Four Witnesses, who were examined and crossed examined and thereafter statement of internee / convict was recorded and on conclusion of trial the internee / convict was awarded death penalty.

3. We have heard learned counsel for the parties and record so produced, gone through with their valuable assistance.

4. Before dilating upon the facts, circumstances, prosecution evidence, confessional statements etc and all the relevant record so produced in all the connected writ petitions, in the shape of photocopies by the respondents/relevant authorities, it would be imperative to discuss the maintainability of the writ petitions and to what extent, as all the convicts have been proceeded under the Pakistan Army Act, 1952 and Pakistan Army Act Rules, 1954, constitutional 21st Amendment Act, 2015, and constitutional 23rd Amendment Act, 2017.

5. The apex court of the country while taking cognizance of the situation and prosecution of civilians under section 59 of the Pakistan Army Act, 1952 (Act No. XXXIX), of 1952 and subsequent constitutional 21st Amendment introduced vide Act No. 1 of 2015, dilated upon the issue in its three judgments reported in PLD 2015 Supreme Court 401 titled “District Bar Association, Rawalpindi and others versus Federation of Pakistan”, which is of full bench of Supreme Court and in the case of “Said Zaman Khan and

others versus Federation of Pakistan through Secretary Ministry of Defence and others reported in 2017 SCMR 1249. Wherein it has been held that any order/sentence passed by any forum including military courts, is open for judicial review under **Article 199 of the Constitution of Pakistan to the High Court** and under **Article 184 (3) to the Supreme Court of Pakistan** on grounds of (i) jurisdiction, (ii) Malafide, (iii) Malice in Law, (iv) Infringements of rights, (v) violation of Law, (vi) non-treating as per law and unfair trial.

6. In the reported judgment **PLD 2015 SC 401**, the amendment i.e. constitutional 21st Amendment Act, No. 1 of 2015, has been elaborately discussed in view of different constitutional provisions by holding it a lawful and legal document and within the basic structure of the constitution. It may be pointed out here that 21st Amendment Act No. 1 of 2015 was a sunset legislation i.e. for a period of two years, therefore on its expiry **23rd Amendment Act, XII of 2017**, was promulgated from **07.01.2017**, for yet another period of two years. Precisely vide the said judgment, while discussing all other aspects, in reference to **Pakistan Army Act No. XXXIX, 1952**, it has been held that ouster of jurisdiction of high court

under Article 199 (3) of the Constitution was not relevant where the impugned proceedings, action, or order of Military Court was without jurisdiction, corum non judice and malafide etc.

7. In the reported judgment, in the case of “**Said Zaman Khan and others versus Federation of Pakistan**” reported in 2017 SCMR 1249, the Hon’ble Apex court while dilating upon the convictions and sentence awarded by Field General Court Martial (FGCM) or other forums under the Pakistan Army Act, 1952, as amended by Pak Army Amended Act, 2015, was subjected to judicial review both by the High Court and the Supreme Court, interalia, on the ground of corum non judice, without jurisdiction or suffering from malafides including malice of law, and has defined the said propositions of law. While defining corum non judice, words & phrases it has been held as under;-

(c) Corum Non Judice

“ Coram non judice, was a fatal flaw germane to the very constitution of the judicial forum rendering its proceedings non est in the eye of law. - - Forum may be vested with the jurisdiction yet its actions may be invalid, if such forum had been set up in clear and absolute violation of the law applicable in such behalf.

(f) Malice---

----'Malice of fact' and 'malice in law'---Distinction and proof.

Where any action was taken or order passed by any forum not with the intention of fulfilling its mandate or to achieve its purpose

but was inspired by a collateral purpose or instigated by a personal motive to wrongfully hurt somebody or benefit oneself or another, it was said to suffer from 'malice of facts'. In such cases, the seat of the malice or bad faith was the evil mind of the person taking the action be it spite or personal bias or ulterior motive. Mere allegations, in such behalf, did not suffice. Malice of fact must be pleaded and established at least prima facie on record through supporting material.

All persons purporting to act under a law are presumed to be aware of it. Hence, where an action taken was so unreasonable, improbable or blatantly illegal that it ceased to be an action countenanced or contemplated by the law under which it was purportedly taken malice would be implied and the act would be deemed to suffer from 'malice in law' or 'constructive malice'. Strict proof of bad faith or collateral propose in such cases may not be required.

(g) Pakistan Army Act (XXXIX of 1952)---

----S. 97---Constitution of Pakistan, Arts. 184(3) & 199---Conviction and sentence awarded by Field General Court Martial (FGCM)---Judicial review---Grounds---'Malafides of fact'---Any proceedings taken, convictions and sentences awarded by the Field General Court Martial (FGCM) could be called into question on the ground of malafides of fact i.e. being tainted with bias or bad faith or taken for a collateral purpose or inspired by a personal motive to hurt a person or benefit oneself or another---Mere allegation that an action had been taken wrongly was not sufficient to establish malafide of fact---Specific allegations of the collateral purpose or an ulterior motive must be made and proved to the satisfaction of the Court.

Chief Justice of Pakistan Iftikhar Muhammad Chaudhry v. President of Pakistan through Secretary and others PLD 2010 SC 61; *Ex-gunner Muhammad Mushtaq and another v. Secretary Ministry of Defence through Chief of Army Staff and others* 2015 SCMR 1071; *Ex. Lt.-Col. Anwar Aziz (PA-7122) v. Federation of Pakistan through Secretary, Ministry of Defence, Rawalpindi and 2 others* PLD 2001 SC 549; *Ghulam Abbas v. Federation of Pakistan through Secretary, Ministry of Defence and others* 2014 SCMR 849 and *Mushtaq Ahmed and others v. Secretary, Ministry of Defence through Chief of Air and Army Staff and others* PLD 2007 SC 405 ref.

(h) Pakistan Army Act (XXXIX of 1952)---

----S. 97---Constitution of Pakistan, Arts. 184(3) & 199---Conviction and sentence awarded by Field General Court Martial (FGCM)---Judicial review---Grounds---'Malice in law'---Any decision of the Field General Court Martial (FGCM) could be challenged on the ground of malice in law or constructive or implied malice for which purpose it was sufficient to establish that the action complained of was not only illegal but so unreasonable and improbable that it could not be said to be contemplated or countenanced by the law where under such action had purportedly been taken---Malice in law would include an act done wrongfully and willfully without reasonable or probable justification.

(i) Pakistan Army Act (XXXIX of 1952)---

----S. 97---Constitution of Pakistan, Arts. 184(3) & 199---Conviction and sentence awarded by Field General Court Martial (FGCM)---Judicial review---Grounds---'Coram non judice' and 'without jurisdiction'---Where there was a fundamental legal flaw in the constitution of the Field General Court Martial (FGCM) the actions taken thereby would be Coram non judice and hence, also without jurisdiction---Actions complained of could even otherwise be without jurisdiction, a separate and independent ground available to challenge the sentences and convictions of the FGCM, therefore, it must necessarily be examined whether the FGCM had the jurisdiction over the person tried and the offence for which such trial had taken place and to ascertain existence or otherwise of any other defect or a gross illegality in the exercise of jurisdiction denuding the same of validity.

(j) Pakistan Army Act (XXXIX of 1952)---

----S. 97---Constitution of Pakistan, Art. 199---Conviction and sentence awarded by Field General Court Martial (FGCM)---Judicial review by the High Court---Scope---Powers of judicial review under Art. 199 of the Constitution, against the sentences and convictions of the Field General Court Martial (FGCM) was not legally identical to the powers of an Appellate Court---Evidence produced could not be analyzed in detail to displace any reasonable or probable conclusion drawn by the FGCM nor could the High Court venture into the realm of the "merits" of the case---High Court could, however, always satisfy itself that it was not a case of no evidence or insufficient evidence or the absence of jurisdiction.

8. The perusal of above quoted judgments of the apex court and finally the judgment of our own High Court, in the case of Muhammad Ayaz versus Superintendent District Jail, Taimergara, District Lower Dir and three others reported in (PLD 2018 Peshawar 1), it is held that, High Court, in its constitutional jurisdiction only had the legal mandate to positively interfere with the decision of the Military Courts, on certain fundamental grounds i.e. If the case of the prosecution was based, **firstly**, on no evidence, **secondly**, insufficient

evidence, **thirdly**, absence of jurisdiction, finally malice of facts & law.

9. On merits each and every case individually, argued by the private counsel of the convict / petitioners and the sacred record, photocopy of which delivered at the time of arguments by the respondents/representative of the Field General Court Martial (FGCM)/Military Personnel in civil dress alongwith with Deputy Attorney General & AAG also heard and record examined.

10 It is observed from the record, so produced that they have erased each and every date, the names of the prosecution's witnesses, their designations, and many other things. On the direction of this court the record was made available to the learned counsel for the convicts/petitioners, but for a very short time and they were permitted to take their own notes and that too with a pencil. By the end of arguments since it was observed that all these proceedings of the prosecution are based only on confession/judicial confession, representative were directed to produce the list of Judicial Magistrates, who recorded the same as all the particulars on the confessional statements so recorded were erased by them in the photocopies,

 which after much discussion were provided in a sealed

envelope with the assurance from court that the same will not be published or be made public in order to protect the said judicial officers from any harm in the hands of terrorist. The said document is with the Court Officer and will not be placed on record whereas rest of the entire record in the shape of Photostat has been made part and parcel of the file/writ petition.

11. The perusal of entire record in each and every case would show that none of the convict was ever, by name mentioned or nominated in any of the report, so formulated or registered by the prosecution. In majority of the cases there is no FIR or any authentic report of the PATA/FATA authorities in this respect. Even in the secret reports of the prosecution/Army/Intelligence no one has been named till the time, someone was apprehended/arrested and he was shifted to the internment center, where each and every one who has been apprehended or arrested from anywhere in the down country, is framed in a particular charge and then after years of confinement, he is abruptly produced before the authorities for recording of confessional statements and that too in the same tone and language and then before the Field General Court Martial (FGCM). In the case reported in P L D 1976 Supreme

Court 57, titled Islamic Republic of Pakistan through

secretary, Ministry of Interior and Kashmir affairs,

Islamabad- applicant/referring authority Versus Abdul

Wali Khan, M. N. A., Former President of Defunct National

Awami Party, the apex Court in similar situation has held as

under:-

(n) Evidence Act (I of 1872) -

S. 3-Hearsay evidence-Spy-Informer-Oral evidence based purely on hearsay-Not admissible unless informant, or source of evidence, produced to give evidence-Such sources, in most cases, either spies or informers-Authenticity of source of such information-Not on higher level than evidence of spy or informer-Courts usually tend to look upon such evidence with some "degree of disfavour"- Spy or informer not called in to support version given by him-Reliability of report based on information given by spy or informer not enhanced even if coming through agency of a very highly placed responsible officer.

(o) Evidence Act (I of 1872)-

-- S. 35-Source Reports, evidentiary value of-Material contained in source or intelligence reports-May well be of great value for executive decisions-For purposes of judicial inquiry, however, such reports of no assistance at all unless authorities concerned prepared to produce sources themselves for giving evidence before Court-Adoption of such course, however, tending to expose such sources to grave personal dangers and to destroy entire intelligence collecting system of Government, source material collected from foreign countries accepted and allowed to be drawn upon only to such extent as it stood corroborated from happenings of events mentioned in report provided such events established all under by reliable evidence.

The material contained in such source or Intelligence Reports may well be of great value so far as executive' decisions are concerned, but for the purposes of a judicial enquiry, they cannot be of any assistance at all unless the authorities concerned are prepared to produce

the sources themselves for giving evidence before the Court. This the authorities have not done in the present case on the ground that to do so would expose the source to grave personal dangers and destroy the entire intelligence collecting system of the Government. The Attorney-General, therefore, suggested that so far as information collected from foreign countries is concerned, the source material may be accepted by relaxing, if necessary, the rules of evidence, as indicated in an earlier order of the Court for otherwise, it would amount to asking him to discharge an almost impossible onus. The Court held that it was not unconscious of his difficulties and, therefore, will allow him to draw upon the source report only to the extent that it has received corroboration from the happening of the events mentioned in the report, if those events have been established aliunde by reliable evidence. Thus, if the source report discloses that a certain line of action is planned or proposed to be taken by certain persona and such actions do in fact take place, then to the extent that the actions take place, the source report may be relied upon as confirmation of the fact that the action was taken in pursuance of a plan as ascribed to in the report.

Likewise, in the case reported in 1982 SCMR-321, titled

The State versus Asfandiyar Wali and two others (d), it was

held as under:-


(c) Evidence Act (I of 1872)-

-S. 35-Intelligence reports-Admissibility-Evidence of witness based on intelligence reports and witness not author of such reports Such evidence, held, inadmissible in evidence.

12. The proceedings after the arrest of each and every

convict are exactly the same, to a question where one of the

convict has said NO or YES the same is till the last

 convict/petitioner. No one has deviated from the principle stand

of the prosecution where-under they are required to produce the evidence, recorded the confessional statement, except the presence of private counsel nominated by the prosecution etc and finally the plead guilty statement. There is no eye witness of the occurrence or for the presence of convicts even, the injured were never produced in any of the case reflecting that all the proceedings conducted by three such courts established, had a clear mind-set.

13. Tentatively, to be discussed later on, the entire judicial confessional statements recorded in Urdu are in one and the same hand writing and in one specific tone/style. All these facts and figures are to be discussed as, in view of the above legal premises/parameters defined by the apex court, permit this court to dilate upon, specially Article 10(A) of the Constitutional of Islamic Republic of Pakistan which guaranteed fair trial to its citizen and admittedly all the convicts are Pakistani civilians, illiterate and Pushto speaking citizens. In the case of Waris Ali and 5 others versus the State (f) (g), reported in 2017 SCMR-1572, it was held as under:-

(f) Interpretation of statutes---

----"Penal statute"---Scope---Whenever a penal statute required interpretation, it shall be interpreted in a way which favored the accused person and not the State---If statute was susceptible to two interpretations, then it must

be interpreted in favour of the accused.

(g) Constitution of Pakistan---

---Art. 4(1)---Right to be dealt with in accordance with law---Scope---If any citizen was triable under the ordinary penal law of the land, then, treating him harshly under a special law, not clearly applicable to him, would be a violation of Art. 4(1) of the Constitution.

14. The conduct of the prosecution as well as the security agencies, in relations to the present convictions could be discussed as by now the agencies are not security agencies rather have become prosecutors and as such the norms of justice in view of the Cr.P.C and Qanoon-e-Shahadat Order, 1984 are to be taken into consideration.

15. The record so produced in all the cases, which is in the shape of photocopies, names, designations and dates including the signatures are erased, reasons best known to the respondents. In all the cases there are four prosecution witnesses except $\frac{3}{4}$ cases where 5/7 witnessed entered in the witness box. It is admitted at the bar that for Khyber Pakhtunkhwa there were in all three Field General Court Martial (FGCM) Courts and each and every document on file would show that all the three courts were functioning on one and the same patron not even a single accused has deviated, differently to the questions put on him. None of the

accused/convict has objected to the President of the said courts.

The waiting member in all the proceedings was directed to withdraw from the court rooms and then he withdraws. The questions put to the all accused are one and the same with exactly the same answers in all the cases. Even for the purpose of engaging private counsel the same format would reflect there were planed proceeding in all the three said courts. For ready reference the proceedings on plea of not guilty, decision of the court in this respect are quoted as under;-

PROCEEDINGS O PLEA OF NOT GUILTY.

Question to accused.

Do you wish to apply for adjournment on the ground that any of the rules relating to the procedure before the trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defense?

Answer by the accused. **No.**

Question to accused.

Do you wish to engage a Civil Defense Counsel of your own choice to plead your case at your own expense?

Answer by the accused. **No.**

Question to accused.

Do you wish that Civil Defense Counsel be provided to you at state expense or you want to defending officer to plead your case?

Answer by the accused. **I want services of Civil Defense Counsel on state expense.**

DECISION BY THE COURT.

The court decides, that as desired by the accused, a Civil Defense Counsel be engaged to plead the case of the accused on

state expense, and therefore, the court should be adjourned. Then one and the same counsel.

16. The prosecution first witness in all the cases, although a different person but in a same language, patron and tone has recorded his statement except the date and time of occurrence with the names of the casualties. The said witness is crossed examined by the defense counsel, which again if compared in all the cases, in the same waves and then there is a reexamination by the prosecutor and questioned by the court in which same language has been used not only by the same court but by all three courts. Same is the position of second to fourth prosecution witnesses then cross examined by the defense counsel, reexamination by the prosecution and question by the court. In the defense statement none of the accused intended to call any witness in defense with a big answer of **NO**. All the accused/convicts very consistently replied to the question, "have you anything to say in your defense, and they said **YES**" and then the statement of the accused/convict would show that whatever he/they were briefed in the internment center and witness No. 1 has uttered in his evidence before court, and he/they narrated in the confessional statement and finally in the statement so recorded in the court. It is important to mention

here that all the proceedings are in English except judicial confession. It is also appreciated that the accused/convict in each and every case was cross examined by the prosecutor, reexamined by the defense counsel, and then questioned by the court. This court was able to go through certain numbers of files record; clearly showing that one and the same patron of the questions were put and replied. The witness to the character of the accused in almost all cases was asked exactly similar questions by the President of the proceedings; reply was the same and in the end it has been typed that the defense counsel declines to cross examine this witness. The parties decline to suggest any questions. In the end of the proceedings a question to the accused was put i.e. **"Do you wish to address the court, answer by the accused, I have done all these deeds considering them a just cause however, now I realized that I has suffered a lot and except my follies I should be treated leniently and given a chance to prove myself as a changed man and become a useful member of the society."** Such working in all the cases is observed. The accused after remaining in the Internment Centres for years astonishingly remember the date, time and minutes, which is witnessed for the first time in the criminal proceedings. The confessional

statements recorded after accused remained in police custody even for six days and then he was handed over to the investigating officer after recording of his confessional statement is always discouraged. These defects have been declared as material and in these circumstances the confessional statement would become unbelievable. Likewise such confessions would be concocted easily, therefore, the same are always looked with doubt and suspicion. The extra judicial confession could be taken as collaborative of the charge if it, in the first instance, ranged true and then found support from other evidence of unimpeachable character, which is totally missing in all the cases, discussed herein. It has been time and again held by the Courts that if the other evidence lacked such attribute, such confession had to be excluded from consideration. Since, long it has become a practice that the Courts generally refrained from basing conviction solely on confession and have always sought for some reliable collaborative evidence regarding material particulars in the confessional statements. In the instant cases, the confessional statements are belated and retracted one ranging from six months to five / eight years. In this respect the law which has

developed is 2016 SCMR-1144, 1995 SCMR-351, 2009

SCMR-04 & PLD, 2012 Pesh-22.

17. In certain cases there are FIRs on record, in which there are number of accused as well, by name and according to the petitioners/convicts the co-accused were treated under the normal law and the accused arrayed in those cases have been acquitted as well. Whereas Maj: Kashif and Col: Rizwan alongwith Deputy Attorney General and Assistant Advocate General categorically stated at the bar that they have no record to the effect as they have no liaison with the civil administration. Even time was given to produce such record to which the reply was the same. Few such acquittal orders are placed on record by the petitioners.

18. On record there are certain death certificates, but no postmortem report is available, regarding injured, as already observed that not even a single injured was produced in any of the case. A document placed on each and every file under the heading Secret Part-II, the date of apprehension from the area (arrest) is erased and subsequently he was interned on the date mentioned therein which is months and months apart. Nothing is on record that during this period where accused/convict was kept. There is nothing on record showing that for months and

months in the internment center accused/convict was in whose custody and was kept in which condition, who took them before the Judicial Magistrate for recording the confessional statement and thereafter; to whom they were handed over. During the period of internment or the period when trial was under process whether any accused was given excess to the relatives because in number of cases the complaints were received in the Human Right Cell, P.H.C.P, regarding the missing of convicts by the parents, spouses and the children/close blood relatives, which complaints were converted into writ petition, and when put to notice, the respondents for months and months sought time for replies. The matter were delayed for a considerable time and during this time they use to inform the court that “**NOT HELD**” and subsequently in some of the cases they came up, that so and so is held in the interment centers. The reasons for giving these particulars are to show that no independent advised was available to the accused during their confinement and trial and all the proceedings are like the Police formula of untraced cases.

19. After the provisions of private defense counsel and that too; on State expense the respondents / prosecution did engage private counsel belonging to the Province of Punjab and

his standing at the bar seems to be, not more then 5/6 years.

How, he represented the accused/convicts and in which language and at which place he use to consult them is a mystery. Even the face / photo of learned counsel on the photocopy of I.D card issued by Punjab Bar Counsel has been erased.

20. We have before us the confessional statements of almost all the convicts and we appreciate with naked eye that all of them are recorded in one & the same handwriting. All these statements have been thumb impressed by the accused / convicts with no mention of identity card number etc. Although the Judicial Magistrate have signed the same confession but nothing is on record showing that all the formalities for recording the judicial confessional statements were complied with or not? However one thing is very much clear that they were produced by the prosecution and after recording their confessional statements they were handed over to the same persons. These confessional statements were recorded after much delay from the date of arrest, confined in internment center, when they were having no excess or the facility to meet their relatives even the parents/close blood relations. Nothing is

 on record to justify, which was even otherwise the

responsibility of the prosecution to show, that they were having independent advice at their arms, before the confession and during trial. In the case of STATE Versus Asfandyar Wali And 2 Others reported in 1982 SCMR-321, (a), (b) & (c) it was held as under:-

(a) Criminal Procedure Code (V of 1898)-

--S. 164-Confession-Coercion-Confession obtained after six weeks of detention in Police custody-No remand order or order for such detention produced-Confession having been obtained after keeping accused in illegal Police custody for six weeks, hell, justifiably refused to be accepted as genuine.

(b) Criminal Procedure Code (V of 1898)-

--- S. 164-Confession-Coercion-Accused kept in dungeons of a medieval Fort depicting ghastly picture of grave where none could maintain balance of his mind, even if kept for a day-Such dungeons " dark and dingy where none could keep his stamina in tact and in order to get temporary relief would be prepared to take any course even though detrimental to him-Confession recorded during such a situation, held, can hardly be said to have not been obtained under coercion.

(c) Criminal Procedure Code (V of 1898)-

S. 164-Confession-Coercion-Magistrate's duty-Delay in recording confession absolutely shocking-Accused literally produced from dungeons of a medieval Fort-Such circumstances having invited suspicion, Magistrate recording confession, held, ought to have questioned accused about his treatment in custody and should have satisfied for himself as to accused's body having not borne any marks of ill-treatment-Elementary safeguards for recording confession having been disregarded, no reliance, held, can be placed on confession.

Likewise, in the case titled as **Muhammad Pervez and others the State and others**, reported in 2007 SCMR-670, it was held as under:-

(a) Penal Code (XLV of 1860)---

---Ss. 395, 396, 397, 412 & 148---
Criminal Procedure Code (V of 1898),
S.164---Reappraisal of evidence---Judicial
confession---Unexplained delay---
Exculpatory statement---Return of
accused to police custody after recording
their confession---Accused, after their
arrest, were subjected to torture and
thereafter confessional statement was
recorded before Magistrate---Trial Court
as well as Federal Shariat Court mainly
relied upon the confessional statement of
accused and convicted and sentenced
them to life imprisonment---Plea raised
by accused was that confessional
statement was recorded with unexplained
delay and was a result of torture---
Validity---Delay of over 24 hours would
normally be fatal to acceptance of judicial
confession and prosecution failed to
explain the delay in recording of
confessional statement---Such delay
created doubt regarding confessional
piece of evidence---Mere delay of 24
hours in recording confessional
statements was not fatal but surrounding
circumstances were also to be considered
regarding believing or not believing
confessional statement---Accused were
tortured by police, therefore, courts
below were not justified to come to the
conclusion that confessional statement
was voluntarily made by accused---
Accused, after recording of confessional
statement were handed back to police,
such type of confession was irrelevant---
Accused remained in police custody
before and after recording confession for
24 hours and Magistrate had taken only
one hour to record confession of the
accused, such type of confession would
not fall in the category of voluntary
confession---Both the courts below erred
in law to accept confessional statement,
which was exculpatory in nature---
Statements of eye-witnesses-was not in
consonance with each other and there
were material contradictions and

improvements in their statements which were not noted by Federal Shariat Court in their true perspective---Person making improvements could not be held worthy of credence---Supreme Court converted petition for leave to appeal into appeal and set aside the conviction and sentence awarded to accused by the courts below--
-Appeal was allowed.

In the case, reported in 2017 SCMR-713, titled Muhammad

Ismail Versus the State, the apex Court has held as under:-

The most important factors and required standards of confession may be cited below:-

"It should be ensured,

- (i) that the accused is in full senses and understands the consequences of making a confession;
- (ii) that, the confession was not a result of any duress, coercion or any promise by the prosecution, to be made an approver;
- (iii) that, during transit of the accused by the police from and to the Trial Court from the prison, on each "Paishi" no threat or pressure was applied by the escorting police guard or incharge thereof;
- (iv) what were the actual facts, which induced the accused to confess after facing trial, during which he pleaded innocence all the way;
- (v) the court recording the confession has to ensure that the mental capacity of the accused is not diminished due to any illness and if some indication of abnormality is suspected by the Court, it is better to refer the accused to the Standing Medical Board to ascertain the true cause thereof;
- (vi) While recording the confession, the same safeguards and precautions be adopted, by directing the Public Prosecutor, the complainant's counsel, the Naib Court and all other officials to leave the Court. If need be, the counsel who represents him, may be given an opportunity to be present inside the Court during the whole process, if the accused person, on asking by the Trial Judge, so demands;
- (vii) the handcuffs of the accused be removed and he be provided a chair on the dais. He may be given some time to think over the making of the

confession and in that regard particular questions be put to him, as to why he was making the confession when he has already pleaded innocence and claimed trial at the time, the formal charge was framed;

- (viii) the Trial Judge shall explain to the accused that, in case of making confession, he has to face a capital sentence in a murder case or any offence punishable with death;
- (ix) the entire record of all the questions and answers recorded, be properly maintained and thereafter, a proper certificate be appended thereto, showing the satisfaction of the Trial Judge that the accused person was not mentally sick and he was making the confession voluntarily, based on true facts and that, there was no other compelling reason behind that.

As the above procedure was not adopted, therefore, it was incorrectly construed by the Courts below as confession of the accused. Under the law, it may be treated as an admission of the appellant, however, on the basis of admission alone, accused person cannot be awarded a capital punishment because admission, as has been defined by Article 30 of the Qanun-e-Shahadat Order, 1984, is only a relevant fact and not a proof by itself, as has been envisaged in Article 43 of the Order, 1984, where a proved, voluntary and true confession alone is held to be a proof against the maker therefore, both the Courts below have fallen in error by treating this halfway admission to be a confession of guilt on the part of the appellant.

It is a bedrock principle of law that, once a Statute or rule directs that a particular act must be performed and shall be construed in a particular way then, acting contrary to that is impliedly prohibited. That means, doing of something contrary to the requirements of law and rules, is impliedly prohibited. Therefore, it is held that the admission of the appellant cannot be a substitute for a true and voluntary confession, recorded after adopting a due process of law and it cannot be made the sole basis of conviction on a capital charge.

Similarly in the case reported in 2016 SCMR-274, (c) Azeem

Khan versus Mujahid Khan, a view has been rendered which reads

as under:-

(c) Criminal Procedure Code (V of 1898)-

---Ss. 164 & 364---High Court (Lahore) Rules and

Orders, Vol. III, Chap. XIII---Judicial confession before Magistrate, recording of---Procedure and precautions to be observed by Magistrate for recording judicial confession of an accused.

Following procedure and precautions are to be observed by a Trial Court for recording judicial confession of an accused.

Before recording confession and that too in crimes entailing capital punishment, the recording Magistrate had to essentially observe all the mandatory precautions (laid down in the High Court Rules and Orders). Fundamental logic behind the same was that, all signs of fear inculcated by the investigating agency in the mind of the accused were to be shed out and he was to be provided full assurance that in case he was not guilty or was not making a confession voluntarily then in that case, he would not be handed over back to the police. Thereafter, sufficient time for reflection was to be given after the first warning was administered. At the expiry of such time, recording Magistrate had to administer the second warning and the accused shall be assured that now he was in the safe hands. All police officials whether in uniform or otherwise, including Naib Court attached to the Court must be kept outside the Court and beyond the view of the accused. After observing all these legal requirements if the accused person was willing to confess then, all required questions as formulated by the High Court Rules and Orders should be put to him and the answers given, be recorded in the words spoken by him. Statement of accused should be recorded by the Magistrate with his own hand and in case there was a genuine compelling reason then, a special note was to be given that the same was dictated to a responsible official of the Court like stenographer or reader and oath shall also be administered to such official that he would correctly type or write the true and correct version. In case, the accused was illiterate, and made a confession, which was recorded in another language i.e. Urdu or English, then the same should be read-over and explained to him in the language he fully understood, and thereafter a certificate, as required under section 364, Cr.P.C. with regard to these proceedings should be given by the Magistrate under his seal and signatures and the accused shall be sent to jail on judicial remand and during this process at no occasion he shall be handed over to any police official/officer whether he was Naib Court wearing police uniform, or any other police official/officer, because such careless dispensation would considerably diminish the voluntary nature of the confession, made by the accused.

21. In almost all the writ petitions there is no order of conviction / sentence showing that it was communicated to the

 said relatives as they are alleging that they came to know

regarding the conviction and sentence through press. There is nothing on record showing that during trial the relatives, who were frequently requesting for a meeting with the apprehended / accused in interment center, were informed or were of the knowledge regarding the trial proceedings. Before this court in all the writ petitions, the relatives have engaged costly and senior counsel which reflects that during trial the same facility was not made available to the accused / convicts. Out of the lot in seventy plus cases, no one opted for engaging a private counsel at their own expenses but the fact is obvious that it was a complete prosecution show and accused / convicts were denied of their legal and fundamental right for engaging a private counsel at their expenses. The so called private counsel at state expenses was just a dummy, to fill in the blanks in this respect as is done in all other proceedings.

22. The PWs 1 and 2 in all the cases narrated the story as in the confessional statement so obtained from the accused/convicts. The court statement of the accused is exactly in the same patron as in all the cases. Even the witness to signing of voluntary statement by the accused, also belongs to the prosecution confirming that there was a complete prosecution.

23. In each and every case the photocopies of the record so provided, each and every date, designation, signature has been erased however, probably inadvertently few such dates have been left un attended by the respondent. In WP 3461-P/2018, the judicial magistrate has recorded in response to question No. 5 that how long you have been in police custody? Since these documents of the prosecution are entirely same in all the cases, therefore word police has not been erased. In response to the same the accused convicts says, in army custody since 03.07.2016 and at the bottom RO&AC date is given 12.07.2017 which means that exactly after one year and nine days of his custody with army he was produced for confessional statement. Such proceedings could not be put to any prudent mind for the purpose of criminal trial and that too for the conviction and capital sentence. Even in the deep appreciation while going through the confessional statement not even a single statement in the entire, more than 72 writ petitions, would show that no one has confessed that I did this particular act by killing so & so. Yes of course each and every rule of the Pakistan Army Act has been followed and prepared by just getting signature of the others which is not appealing to the prudent mind that how and why all the three Field General

Court Martial (FGCM), president, prosecution witnesses, so called private counsel and others were thinking with the same mind and question to be put to the accused facing trial and with same mind set. As already observed above there is no report prior to the arrest of the particular person/accused/convict that he is by name charged in any particular case rather after the arrest each and every accused/convict was kept and framed in a particular occurrence/act.

24. All the cases, in view of the above facts and figures are cases of no evidence, if the alleged confessional statements are subtracted, pulled out of the entire proceedings. The alleged confessional statement with no independent advice after months / years of confinement with military and internment centers is a manufactured story obtained and subscribed one, totally reflecting the intention to fill in the blanks, by way of untraced cases. All circumstances must be so interlinked, making out a single unbroken chain, where one and of the same touches the dead body and other, the neck of the accused. Any missing link in the chain would destroy the whole and would render the same unreliable for recording a conviction on a capital charge. In case of circumstantial evidence there are chances of procuring and fabrication of evidence, therefore,

courts were required to take extra care and caution to narrowly examine such evidence with pure judicial approach to satisfy itself, about its intrinsic worth and reliability, also ensuring that no dishonesty was committed during the course of collecting such evidence by the investigators. The illegality and irregularities in recording confessional statements, recorded after long custody, benefit of which is always given to the accused. In this respect reliance is placed on the case reported in 2007 SCMR-670, titled Muhammad Pervez and others versus The State and others, Haq Nawaz and another v. State 2000 SCMR 785; Mehmood Ahmed and 2 others v. State 1995 SCMR 127; Walayat and another v. Stae 1984 SCMR 530; Bashir Ahmed's case 1999 SCMR 114; Muhammad Fazal's case 2006 SCMR 143; Muhammad Mansha's case 2001 SCMR 199; Tariq Hussain Shah's case 2003 SCMR 98; Manject Eingh v. Stage PLD 2006 SC 30; Nageebullah's case PLD 1978 SC 21; Khan Muhammad'g case 1981 SCMR 597; Khuda Bakhsh' case 1969 SCMR 390; Suleman Shah's case PLD 1971 SC 751; Muhammad Shafique Ahmad's case PLD 1981 SC 472; Roshin's case PLD 1977 SC 557 and Shahbaz Khan Jakhrani's case 1984 SCMR 42.

25. In all these cases, the plea of the convicts is that confessional statements were recorded with unexplained delay and was a result of torture. The delay of over 24 hours would normally be fatal to acceptance of judicial confession and in all these cases; there is no reason, whatsoever by the prosecution regarding such delay. In all the cases wherein there is a loss of human life, capital punishment has been awarded, even if the charge is of abetment. In the case of injuries in an occurrence, the punishment of life has been awarded, even to the charge of abetment also. For loss to the property the punishment of fifteen years to twenty years has been awarded, with no proof whatsoever regarding the physical presence on spot of the convicts, except the so called confessional statements. There is nothing on record showing that anyone was acquitted in any case.

26. Article 10-A of the Constitution guarantees right to fair trial, which reads "*For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process*". The fair trial means grant of a proper hearing to an accused person by an unbiased competent forum and that justice should not only be done but be seen to be done. Right of fair trial, cast on an

adjudicating tribunal or forum, a duty to treat a person in accordance with law, to grant him a fair hearing, and for himself to be an impartial and a fair tribunal. In this respect we are forfeited by the judgment of apex Court in the case reported in PLD 2012 Supreme Court-553, Suo Motu Case No. 4 of 2010, (Contempt proceedings against Syed Yousaf Raza Gillani, the Prime Minister of Pakistan regarding non-compliance of Court order dated 16.12.2009, which reads as under:-

(a) Constitution of Pakistan---

---Art. 10A---"Right to fair trial"---Scope and meaning---Right to a 'fair trial' means right to a proper hearing by an unbiased competent forum, with the latter component being based on the maxim: "Nemo debet esse judex in propria causa" that "no man can be a judge in his own cause"---Said principle has been expounded to mean that a Judge must not hear a case in which he has personal interest, whether or not his decision is influenced by his interest, for "justice should not only be done but be seen to have been done"---Right to a fair trial has been associated with the fundamental right of access to justice, which should be read in every statute even if not expressly provided for unless specifically excluded---While incorporating Article 10A in the Constitution and making the right, to a 'fair trial' a fundamental right, the legislature did not define or describe the requisites of a 'fair trial', which showed that perhaps the intention was to give it the same meaning as is broadly universally recognized and embedded in jurisprudence in Pakistan.

(b) Constitution of Pakistan---

---Arts. 8 & 10A--- Law, custom or usage which is inconsistent with the right to a fair trial---Scope---Law, or custom or usage having the force of law, which is inconsistent with the right to a 'fair trial' would be void by virtue of Article 8 of the Constitution.

Likewise, in the case reported in 2016 SCMR-943, titled

Ishtiaq Ahmad versus Hon'ble Competent Authority through Registrar, Supreme Court of Pakistan.

(a) Constitution of Pakistan---

---Art. 9---'Access to justice'---Definition---
Access to justice had been defined as an equal right to participate in every institution where law was debated, created, found, organized, administered interpreted and applied---Broadly it had been described as an integral part of the rule of law in constitutional democracies and was a hallmark of civilized society.

(e) Constitution of Pakistan---

---Art. 10-A---Right of fair trial---Scope---Right of fair trial meant grant of a proper hearing to an accused person by an unbiased competent forum, and that justice should not only be done but be seen to be done---Right of fair trial cast on an adjudicatory tribunal or forum a duty to treat a person in accordance with law, to grant him a fair hearing, and for itself to be an impartial and a fair tribunal.

Similarly in the case reported in PLD-2014 Supreme Court-232

titled Sarfraz Saleem versus Federation of Pakistan and others, it was

held as under:-

(c) Constitution of Pakistan---

---Arts. 4 & 10A---Equal protection of law---
Scope---Articles 4 & 10A of the Constitution ensured that all individuals should enjoy equal protection of law and should be treated in accordance with law, which was their inalienable right---Every person for determination of his civil rights and obligations or in any criminal charge against him should be entitled to fair trial and due process.

In the case of **Malak Jehangir Khan and others versus Sardar**

Ali and 2 others, reported in 2007 SCMR-1404, the apex Court has

held as under:-

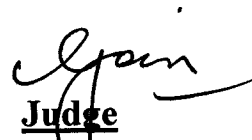
----Ss. 302(b) & 201---Constitution of Pakistan (1973), Art.185(3)--- Appeal against acquittal---
Only piece of evidence against the accused was

retracted judicial confession which even according to High Court was not corroborated by any other independent evidence and was disbelieved---No illegality, misreading or non-appreciation of evidence warranting interference by Supreme Court could be pointed out---Impugned judgment acquitting the accused had been passed after duly appraising the entire evidence collected by the prosecution---Leave to appeal was refused accordingly.

27. The entire facts and circumstances discussed above in reference to the judgments of apex Court, it is held that all these cases of conviction are the cases of no evidence and based on malice of facts and law. The way all the convicts have been proceeded right from their arrest, from different part of the country, in the custody of the agencies and landing them in the Internment Centers for months / years, are not appreciated at all for the purpose of convictions. Therefore, we while exercising our powers of Judicial Review in the light of the referred judgments of the apex Court, accept all the writ petitions, set aside the impugned convictions & sentences, being based on malice in law and facts, as well and resultantly, respondents are directed to set free all the convicts / internee, if not required in any other case.

Announced.
18.10.2018


Chief Justice


Judge